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A TRAINING MANUAL

Compiled & Written by:

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Probation Department
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FOREWORD

A great deal of time and effort has been devoted to the production of this Training Manual, something which, it is hoped, will satisfy a long-felt need in this Department.

It is anticipated that changes will doubtlessly be made from time to time. With this in mind, you are requested to offer comments to your Supervising Probation Officer regarding the contents, so that improvements in procedure can be quickly incorporated.

It may well be that some Probation Officers will have difficulty in accepting some of the requirements relating to form and content of the various documents which they are required to submit to the Court. If this is the case, please bear in mind that we function within a legal framework, that Pre-Sentence Reports, and the myriad of Motions submitted are legal documents. Hence they must conform to certain restrictions, and contain specific data, over which a department such as ours has no control.

Warren T. Jenkins
Warren T. Jenkins

Chief Adult Probation Officer

San Francisco,
California
October 26, 1973

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PROBATION: ITS CONCEPT AND PURPOSE

PROMOTION: Its Concept and Purpose

Judicial use of methods of suspending sentence laid the groundwork for the development of the probation system. Early practices in the English Courts enabled members of the clergy, and later others who were literate, to avoid severe punishment. Judicial reprieve, or suspension, described by Blackstone as "withdrawing of a sentence for an interval of time", was a common practice in England, from which it was brought to this country. By 1830 it was common practice in England to release an offender contingent on continued good behavior, permitting him to go on his own recognizance. Revised statutes of 1836 permitted the Courts to discharge certain offenders if they had friends who would guarantee their future good conduct. In other situations, cases were filed in order to avoid passing sentence so that, in effect, cases were suspended, not closed, since the case could be taken from the files for sentence at any time. Thus probation emerged as an outgrowth of a long standing practice of suspending the imposition of sentence at the discretion of the Court in accordance with principles and rules that were being developed simultaneously.

While these early practices reduced to some degree the primitive effects of the administration of justice under the criminal law, they did not attempt to extend the authority of the Court over the life of the offender or offer him any constructive help. The efforts of John Augustus, a Boston resident, to aid and rehabilitate offenders, starting in 1841, represents a milestone in the judicial process.

Such voluntary efforts have continued to be a part of the system of justice ever since. After probation was established by statute in Massachusetts in 1878, laws were passed first permitting and then mandating the appointment of Probation Officers. When juvenile court laws were passed, first in Illinois in 1899, and subsequently elsewhere, probation services were authorized without exception.

Today there exist Federal, State and County systems of probation for both adult and juvenile courts. The concept of probation as a variation of the practice of services to the Courts, offers protection to the community, and assistance, treatment or rehabilitation to juvenile and adult offenders.

The use of probation as a method of social control of offenders is a recent development in modern penology. In 1903 the first laws on probation in California were passed, not too many years after John Augustus volunteered to be responsible for an offender as an alternative to his being placed in jail. The objectives, principles and responsibilities of probation departments are set forth in the law, principally in the Penal Code and in the Welfare and Institutions Code, reflecting in formal terms the will and intent of society as codified through the legislative process.

The principal responsibilities of this Department fall in two categories: (1) the investigation of adults convicted of crime; and (2) the supervision of such individuals upon determination that such a disposition best meets the needs of society and the individual.

The public as well as governing officials must know the guiding principles and major objectives of the Probation Department as a basis for understanding what is done, and evaluating the department's effectiveness. With such understanding will come not only a sharing of the responsibility for the department's functioning, but an insistence that the highest possible standards of probation service to the community be established and maintained.

The personal commitment and dedication of the Probation Department's staff to its objectives and principles are as essential as are the demands for technical competency and integrity.

The administration of the department must be ever in tune with the goals of protecting society and strict adherence to the democratic principle that in America, every human being is a precious commodity.

PROBATION SERVICE OBJECTIVES

Protection of the Community

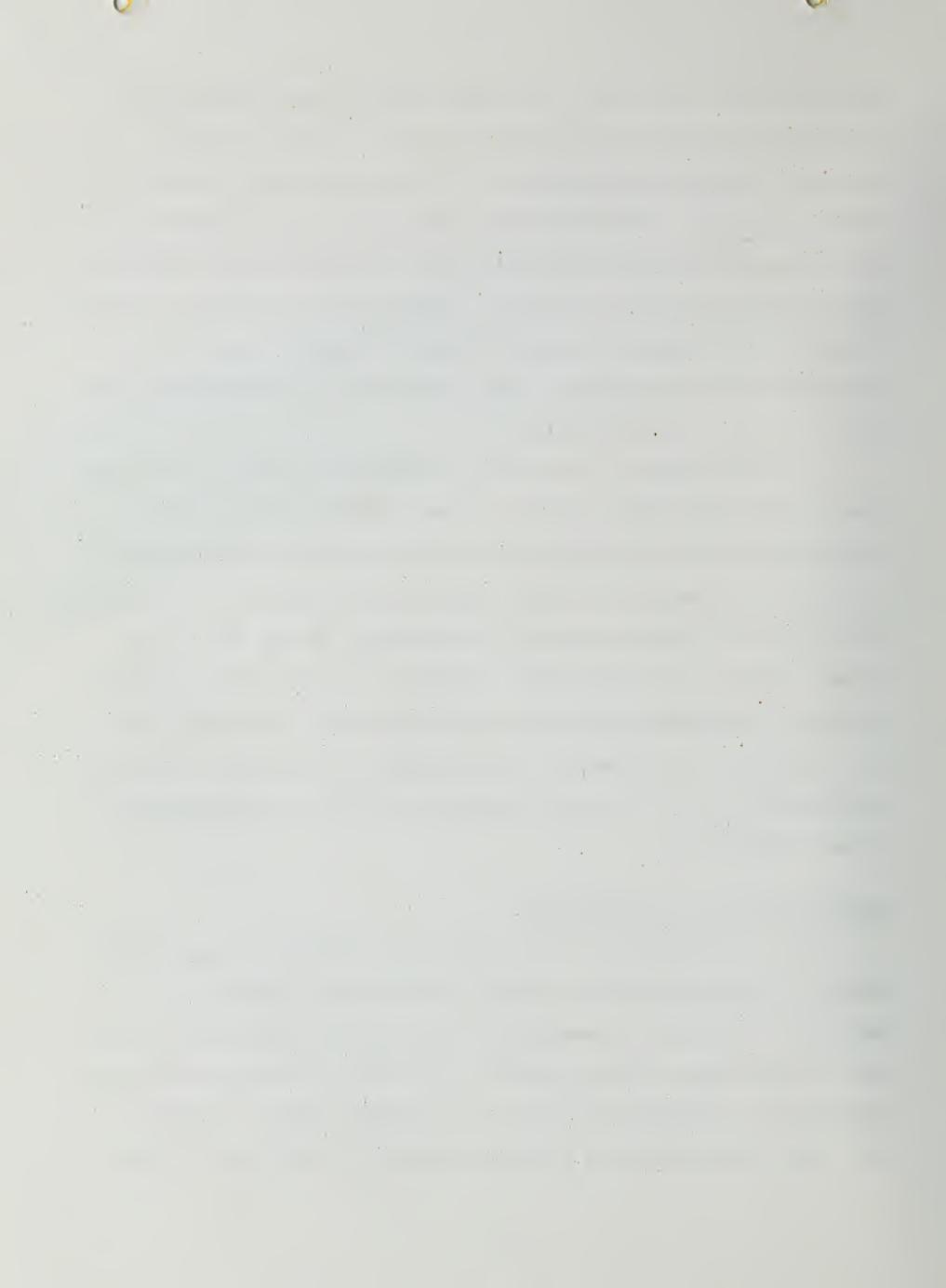
The Probation Department shares with other agencies involved in the administration of justice the responsibility for protecting the community, both persons and property, from the illegal and anti-social acts of persons coming to its attention, accomplishing this end through the use of modern methods of diagnosis, control and treatment. The department must make a realistic assessment of the degree of risk represented by each person brought to its attention and then determine the course of action that will best protect the community. Such information and recommendations related to community protection must then be provided the Courts.

When indicated, the Courts will then authorize the supervision and control of probationers to the end that society will be protected through such preventive or corrective action as may become necessary. The maintenance and operation of diagnostic, detention and treatment facilities are important to the successful implementation of this objective. Planning for research to improve diagnostic and predictive capabilities of probation services in relation to the protection of the community are an essential part of meeting this responsibility.

It is important to note that the Probation Officer must make known to the Court not only his recommendation as to what he believes to be the best disposition for protecting the community, but also the alternative dispositions for the Court's consideration. The objective of protecting society pertains to not only those persons who are considered for probation, but those who will not be placed on probation and presumably not even recommended for such service. Confinement in local jails and commitment to state institutions are alternative dispositions which are appropriate in many situations.

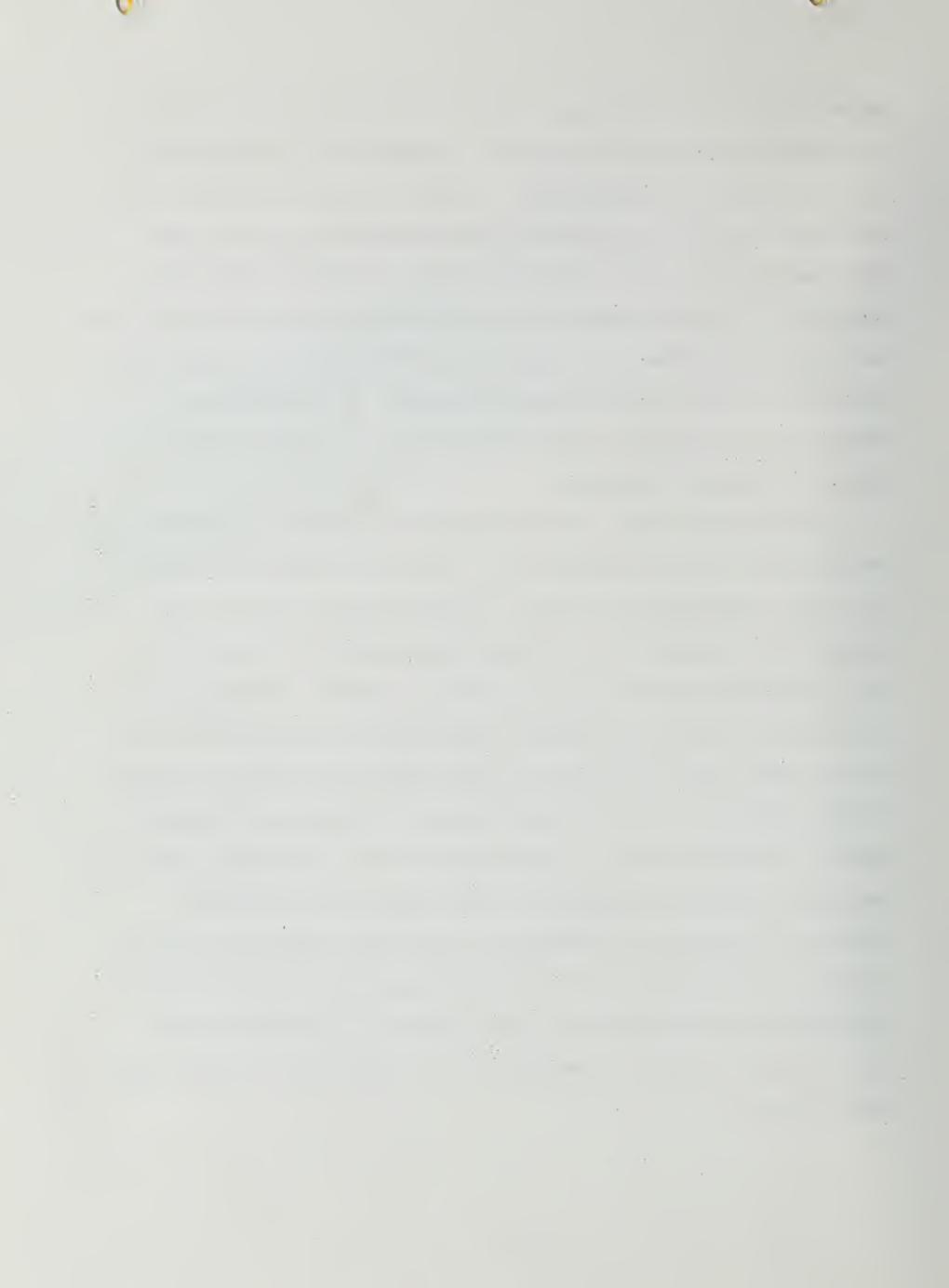
Rehabilitation of Probationers

The rehabilitation of the probationer refers to successful efforts to bring about law abiding and socially responsible behavior. In order to accomplish this goal, the department must make an assessment of the personal and social conditions of those referred for probation services. The Courts must be provided with such information and recommendations as are related to the



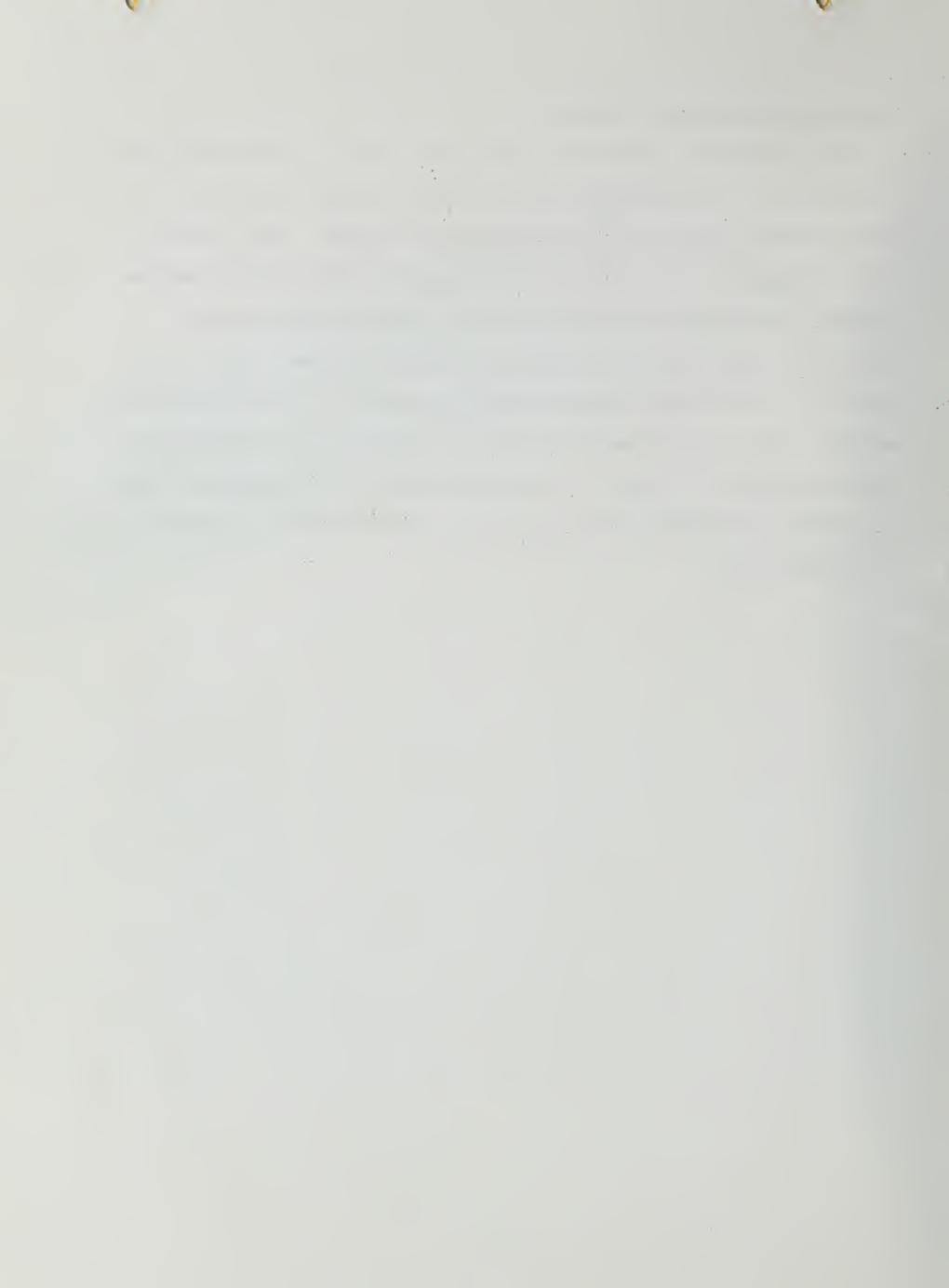
rehabilitation of offenders. The treatment goal, law abiding and socially responsible behavior, appropriate to each person must be defined and delineated. A plan of supervision must be developed in order to accomplish the treatment goal and this plan carried out in the community using available facilities. Diagnostic, treatment and detention facilities must be maintained and operated in order to further rehabilitation, and appropriate clinical services must be made available. An essential to improving the treatment capabilities of the department is an effective research program.

In a limited sense, "rehabilitation" consists of preventing recidivism or, stated differently, successful supervision may have been accomplished when the probationer has been able to complete his probation term to the satisfaction of the Court. Other definitions may be just as valid, however. Helping the probationer realize his maximum potential as a human being may be even more important than the short term goal mentioned above. In approaching its task of supervision, the department should also be concerned with the adjustment of the probationer after the period of probation terminates rather than merely with the question of whether he recidivates during the period of supervision. In some instances the department has a responsibility for requesting an extension of the period of probation within legal limits in order to accomplish its objectives of meaningful rehabilitation.



The Administration of Justice

The Probation Department must play a role in balancing the interests of the community and the rights of the individual in those matters assigned to the Probation Officer. The Probation Officer must not only support enforcement of the law but assist persons receiving probation services in understanding and exercising their rights and their responsibilities. The officer must also provide the Courts with information and recommendations as they relate to issues of justice, including the adjudication and disposition of cases. Thereafter he must be concerned with respecting the rights and fundamental human freedom of persons under his supervision.



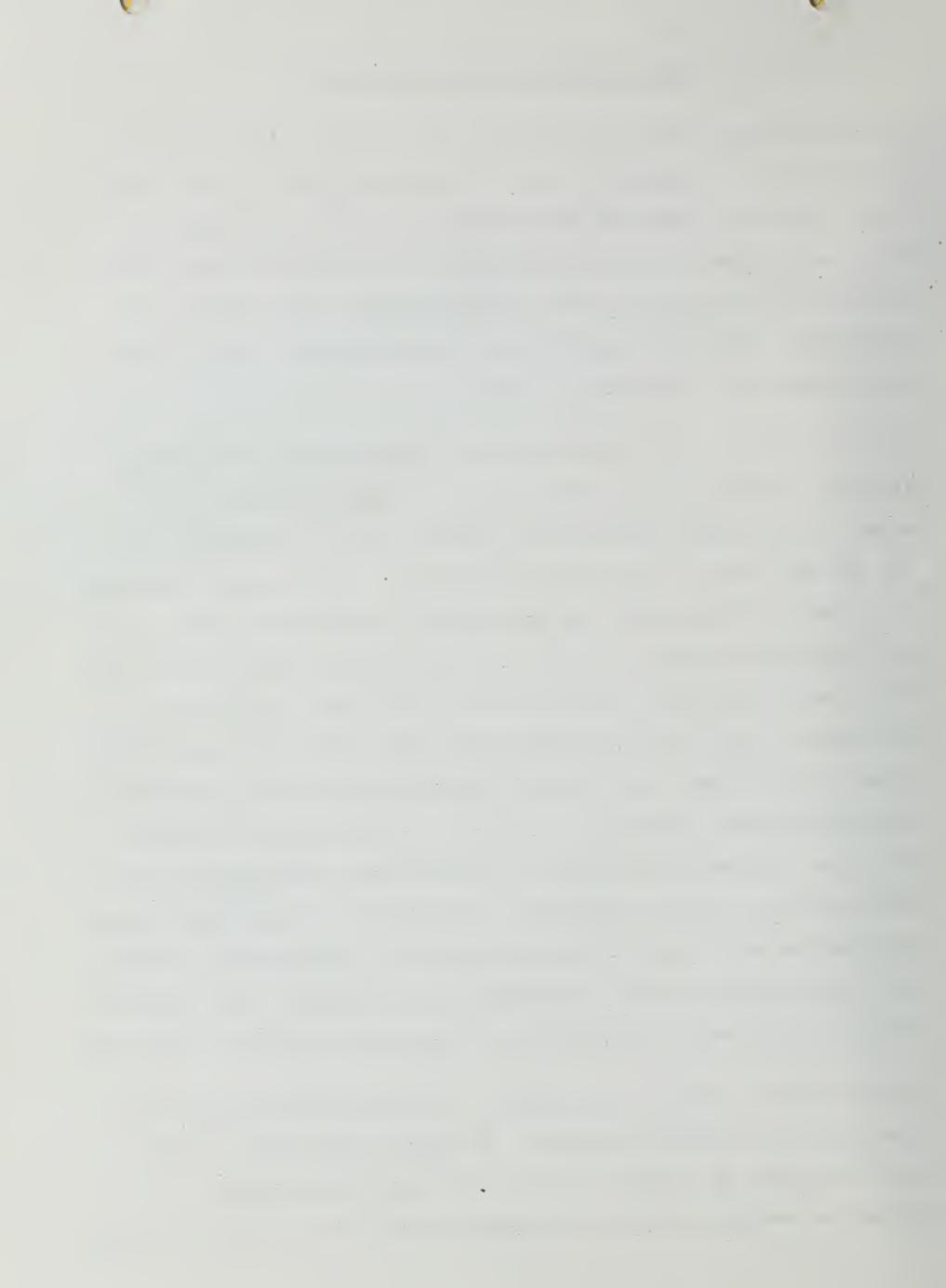
COURT INVESTIGATIONS AND REPORTS

COURT INVESTIGATIONS AND REPORTS

All professional disciplines depend upon reports. Presentation of evidence by attorneys in court is reporting based on investigation, selection, analysis, and conclusion. So is the diagnosis and prescription of the medical doctor. If a dam is to be built--and hold water--engineers must investigate the site, inspect the topography, assay the availability of materials, and come up with a plan based on a synthesis of the fact.

Dealing with the lives and liberties of human beings, probation officers cannot do less. Their report to the court must "hold water". The formal report is an integral part of probation work and the very core of the probation process. Reports serve as bases of action by courts; they are the base of the on-going case record used in probation supervision by practitioners and supervisors; and they provide continuity during the life of a case. Reports are not separate and isolated things, but rather the final distillation of an investigation, and tangible representation of our profession. Investigating and reporting are central to the probation process. For these reasons the director of the California Department of the Youth Authority, under legislative prescription to establish standards for the performance of probation duties, provided for research into the subject of court investigations and reports. The purpose was to furnish useful information to California's probation officers.

One fact became obvious very quickly. Probation investigation and reporting are a profound subject. To explore them fully would require reference to general problems of human communication. Our scope--to provide material immediately useful in practice--precluded



descent into this maelstrom. However, before proceeding to specific suggestions about conducting investigations and preparing reports, there are four questions which cannot be ignored: (1) How objective and subjective should a probation officer be? (2) Is selectivity really desirable in investigations and reports? (3) What is probation interviewing? (4) What is the appropriate relationship between a probation officer and his court?

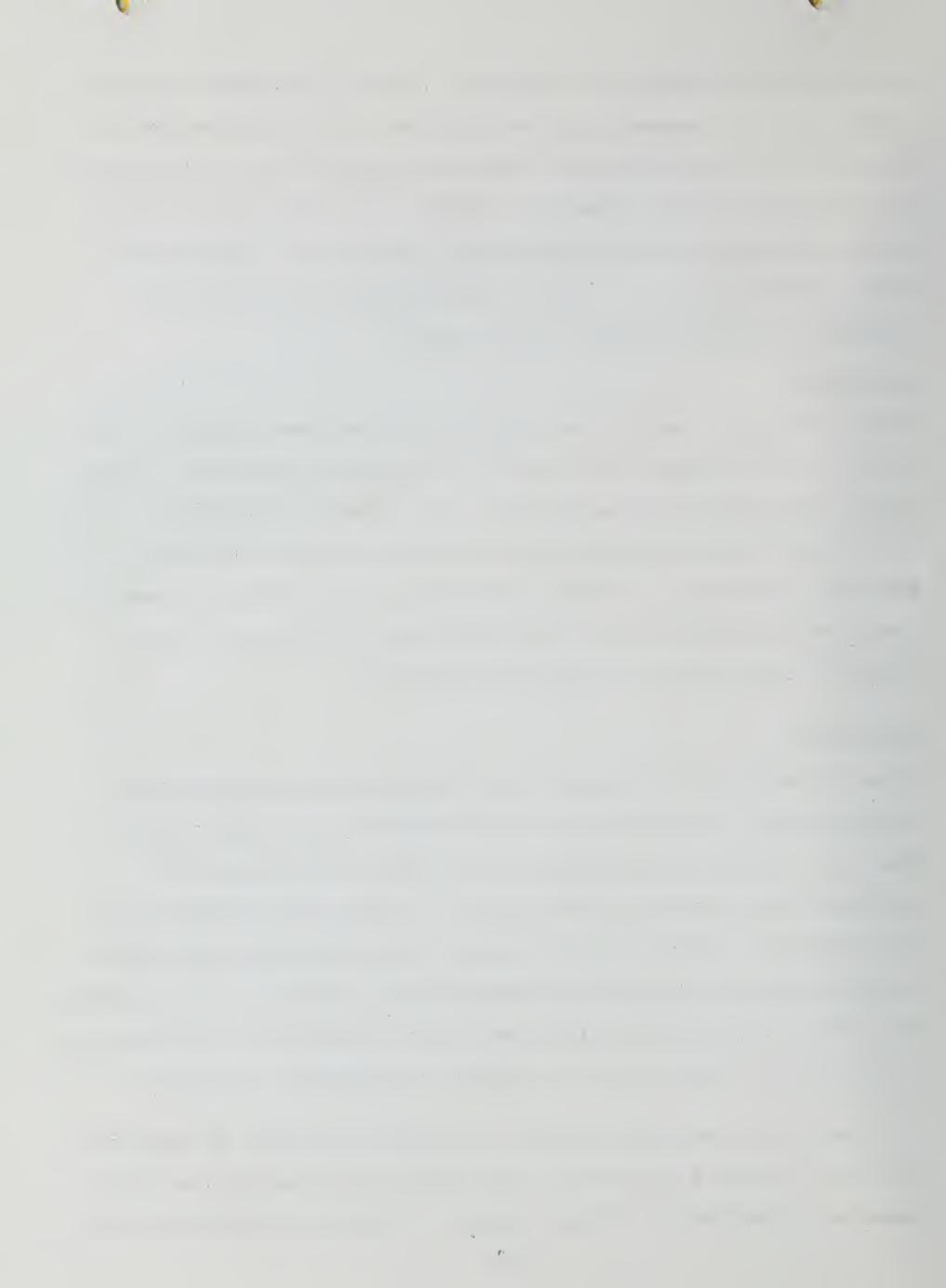
OBJECTIVITY

We all recognize that our own conflicts, biases, and thought-stereotypes must not dominate our functions as probation officers. To the extent this happens our professional effectiveness is impaired. Yet, if we were completely objective, our performance would be cold, sterile, emasculated. We need "scientific passion" for observable facts and conditions, on the one hand; and, on the other, full exercise of our powers of insight and intuition.

SELECTIVITY

Is selectivity really desirable as a method in investigation and report writing? Can we produce valid reports by pursuing significant leads during an investigation, and then selecting what is important for inclusion in our reports? Some people maintain that this selective method is a booby-trap; that real communication cannot occur except through direct interpersonal contact; that condensing and abstracting our observations and then writing them down causes us to distort the situation we are trying to understand and report.

With due respect to this position we can only say that, as probation officers, we have a job to do. The written report must be our basic means of communication with the court. We cannot give unlimited time



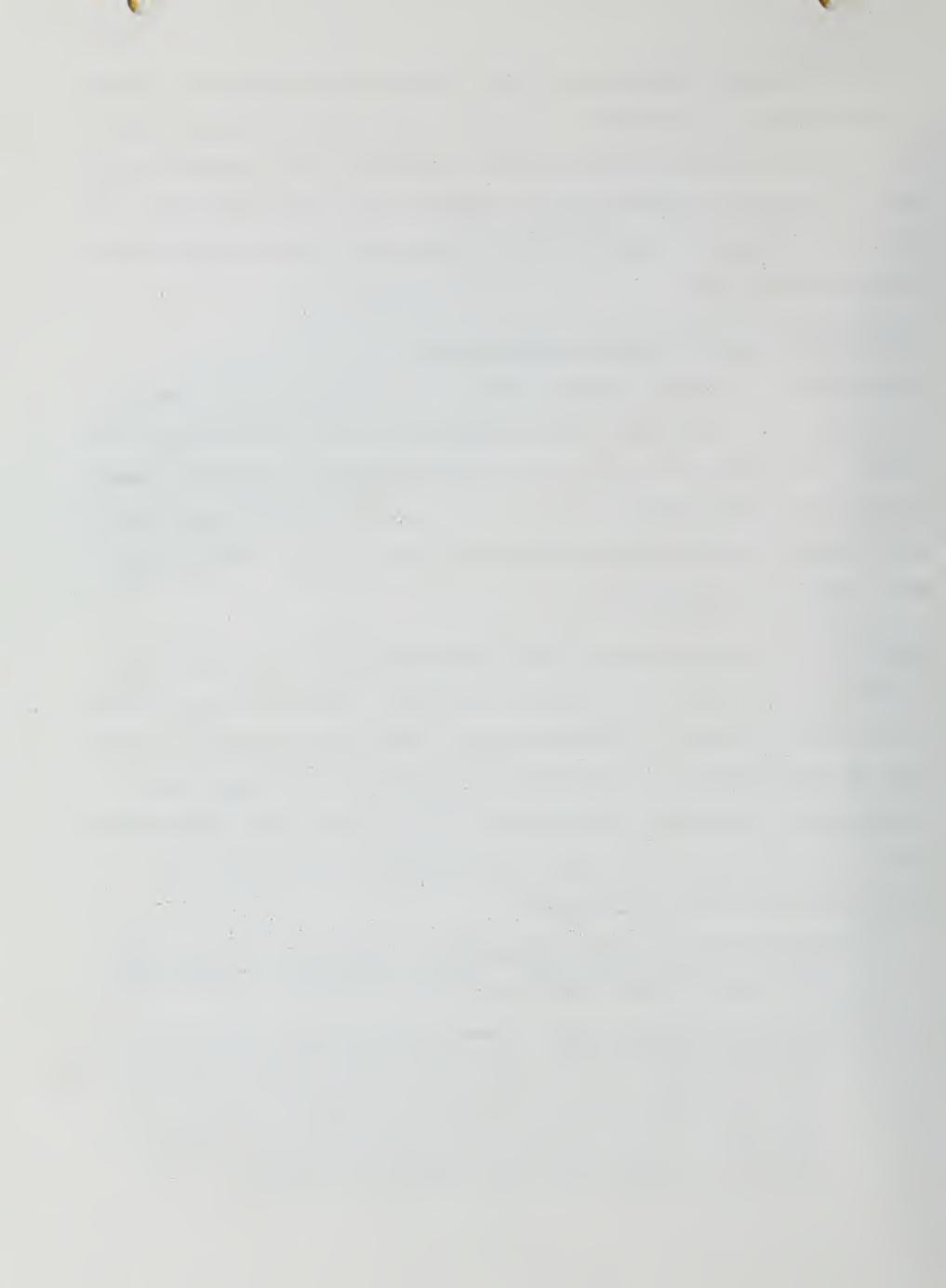
to any one case. Therefore, we must strive to be selective. Selectivity--the ability to select the significant and discard all else--is needed in common by the housewife at market, the literary artist, and the probation officer. Being selective is being practical. Selectivity pares off bones and fat and gives the judge a report consisting of lean meat.

SOME PRINCIPLES IN EFFECTIVE INTERVIEWING

Interviewing is another central issue. It is the principal method of investigation. Effective interviewing makes good investigation possible. Since this is a large and complex subject, we cannot presume to discuss it exhaustively here. But there are certain key points which relate specifically to probation interviewing. Perhaps they will serve as a springboard.

Except for a certain amount of correspondence and record searching, investigation consists of talking to people. Therefore interviewing is the first element of investigation. There is considerable literature on the subject in the fields of social work, personnel work, guidance and counseling, and others. In trying to relate this material to the practical day-to-day work of probation officers, the following basic principles emerge:

- (1) Listening is better than talking. We will not learn much if we do all the talking. We are conducting an investigation, not an interrogation.
- (2) Playing a waiting game. Sometimes a person will "give," sometimes he will not. We cannot force significant information from him. While it is true we are pressed for time, we should cultivate the interview situation in such a way as to allow him to express himself. Let him talk at his own speed. We will need to ask questions for specific information. Other questions should be for directing the subject's conversation into productive channels.



(3) The location of the interview is important. Privacy is a necessity. The person we are talking to is not likely to "open up" if others are present. In the case of office interviews, preinterview atmosphere is also important. If the person already feels "stared at" before we meet him, our talk will begin under a handicap.

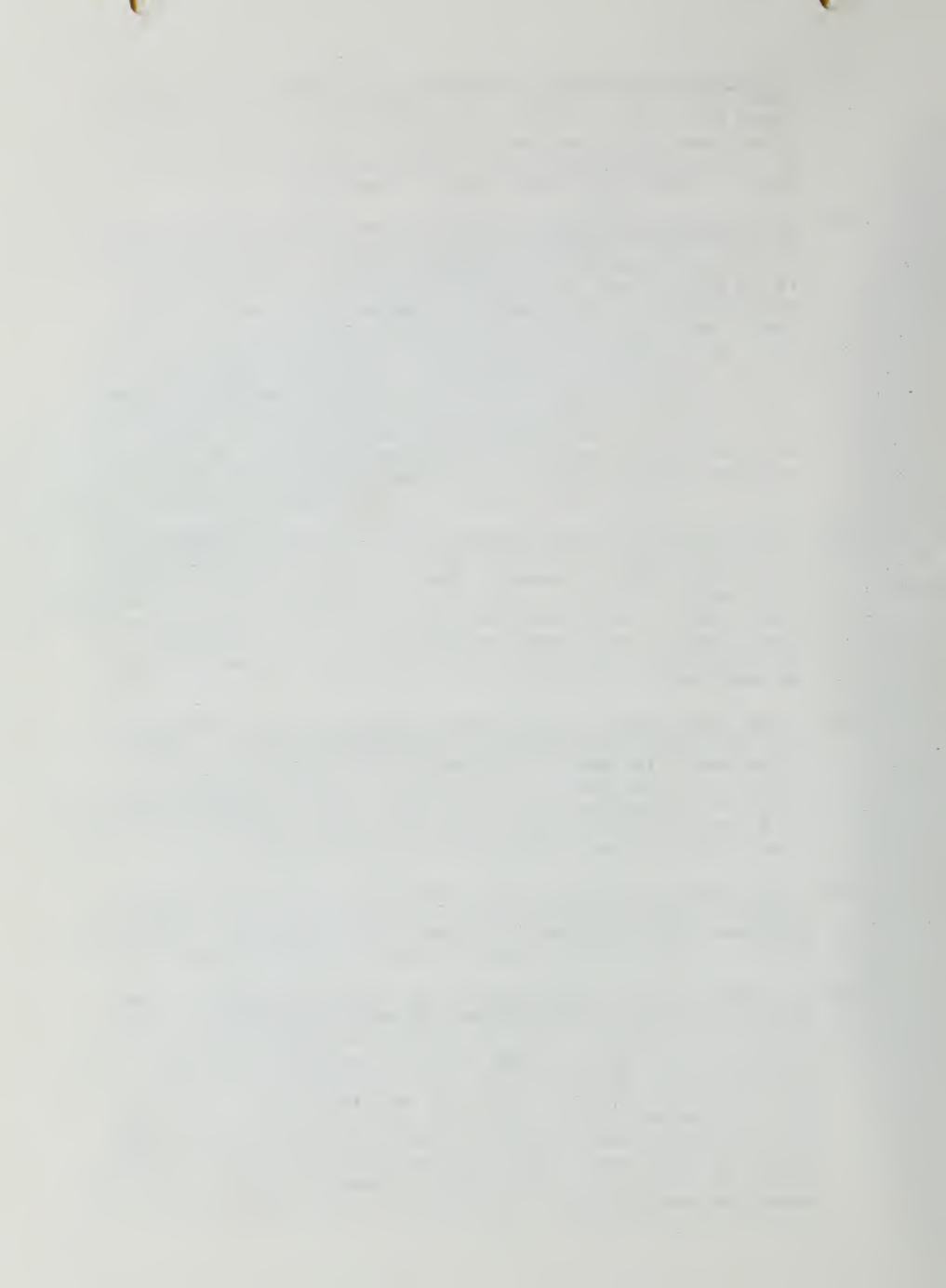
(4) Offering our services. The probation officer's interview with a client may differ from that of a personnel officer or a social worker in a private agency. This difference is in the nature of things. The atmosphere is clearly authoritative. The shadow of the court is cast between you. The client may want help or he may not; but in any case he is going to receive service of some sort, whether or not he desires it initially. (This does not mean, of course, that we may not motivate him to take full advantage of what we offer. And the element of authority can be an asset, as is now generally recognized.) In any case we are not conducting an interrogation. We seek to achieve insight into his problems and the best way to do this is to help him bring out his problems in his own words.

(5) Asking questions and writing down the answers verbatim is not interviewing. If this were so a tape recorder would do a better job. However, there is much exacting information (such as dates, names, chronological history of events) which must be carefully recorded. If this is explained to the client he will usually understand. If skillfully used, the recording of factual information can become an asset in successful interviewing.

(6) In an interview two is company; more a crowd. Generally, only one person should be interviewed at a time. Exceptions occur (a family conference, for example), but usually the purpose of an interview is defeated if more than the interviewer and the person interviewed are present. If a youngster is to be interviewed, the parents can be excused and problems discussed with them later.

(7) "Who does what?" should be made clear. The interviewer should explain exactly who he is and what he is, what his purposes are, and where he stands in relation to the client. Doubts, surmise, and suspicion negate an interview.

(8) We hear much of "acceptance" and "being accepted." How can we be expected to approve of unsocial behavior? We cannot, of course. Yet, we are in constant danger of becoming judgmental, of lecturing and moralizing. The resolution of this dilemma lies in defining "acceptance". We can accept without condoning and approving. That is, we can disapprove of a person's behavior but at the same time actively and positively seek to understand his feelings and problems. According to this definition of acceptance, we are saying, in effect, "I want to help you because what you are doing is destructive to you, and society will not put up with it."



(9) To understand a person we have to be able to see things from his point of view. Communicate without "talking down" to him, but use language he can understand. Encourage him to speak in his own words and in his own way.

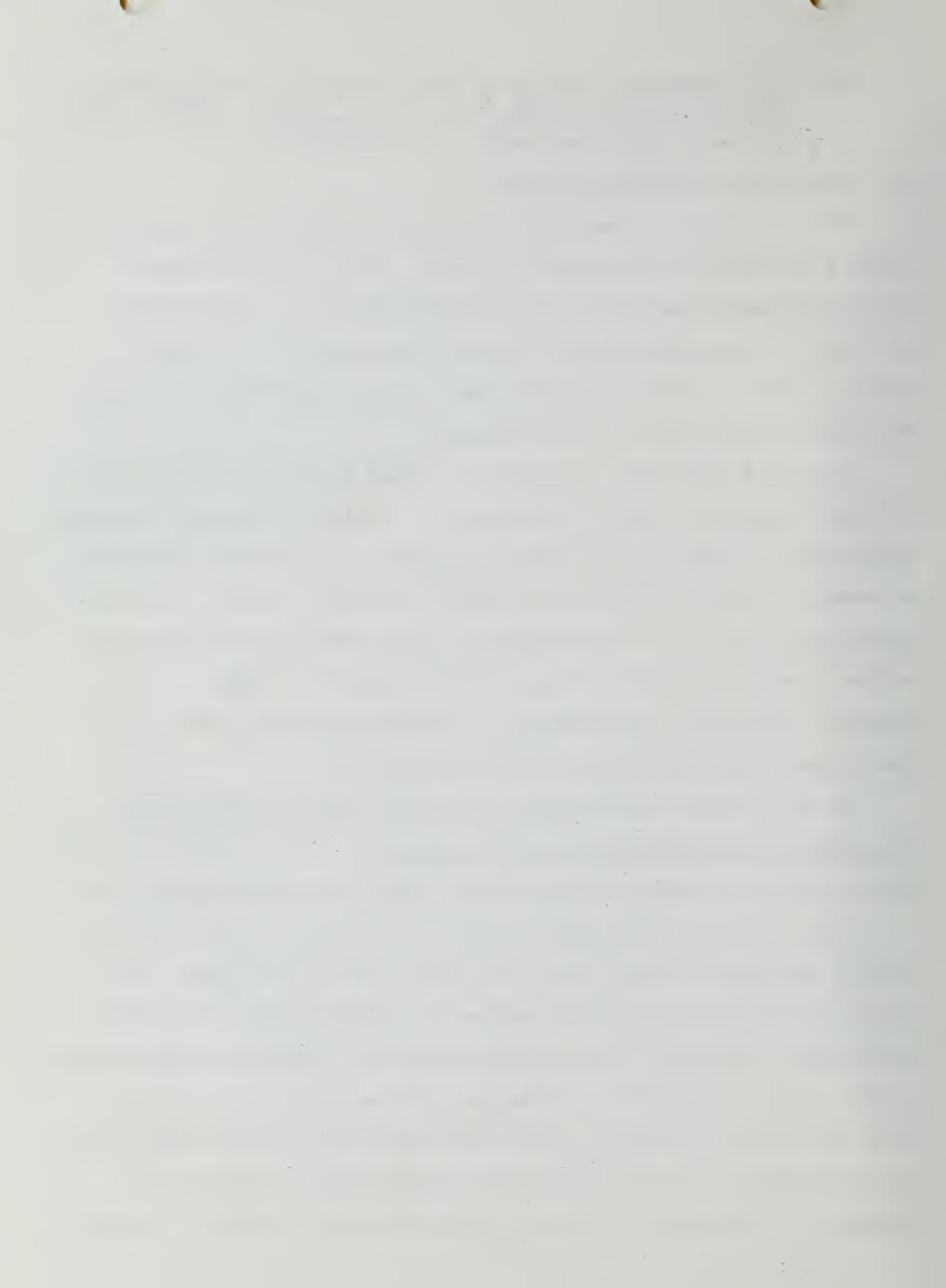
THE PROBATION OFFICER AND THE COURT

Sometimes there is confusion about the proper relationship between a probation officer and the court. Lack of understanding and communication tends to become self-perpetuating. The greater the lack of understanding, the greater the danger of "slanting" a report. This, in turn, lessens mutual trust, confidence, and respect. How can we avoid this treadmill danger?

Here is a proposal. Probation is based on two premises. First, it exists primarily for the protection of society. We are, therefore, exercising the power of the State to protect its members. There are a number of possible methods of trying to protect society, most of which have proved to be ineffective, or else they bear within themselves a negation of the very goal they purport to attain. For example, "fighting" the offender is a dubious battle at best, like Don Quixote jousting fiercely with a windmill.

So our second premise is that the most effective protection for society is rehabilitation of the offender. We are persuaded that best results are obtained from working with rather than against him.

Here is the crucial point: in the intensity of this latter persuasion we cannot forget that we are dealing with the rights and liberties of human beings. No matter how valid our professional conclusions, they must be subject to review by responsible entities--either courts or boards. By "responsible" we mean entities which have been clearly designated and established and clothed with specific responsibility and which must answer to the public through legal channels or otherwise. In short, no professional worker can legiti-



mately assume the exclusive right to decide certain questions affecting the life and liberty of another person. To incline so is professional arrogance.

Judges are sensitive to the fact that we work within a legal framework, and they often express the opinion that a probation officer must forget neither the demands of the law nor the constitutional rights of the client. This may be one point where communication breaks down. Probation officers may, in certain instances, feel a judge does not have a thorough understanding of the philosophy and technical skills of the probation officer. And judges become impatient with some probation officers who do not clearly perceive the demands of legal procedure. If this is a dilemma, what is its resolution? There seems to be two approaches.

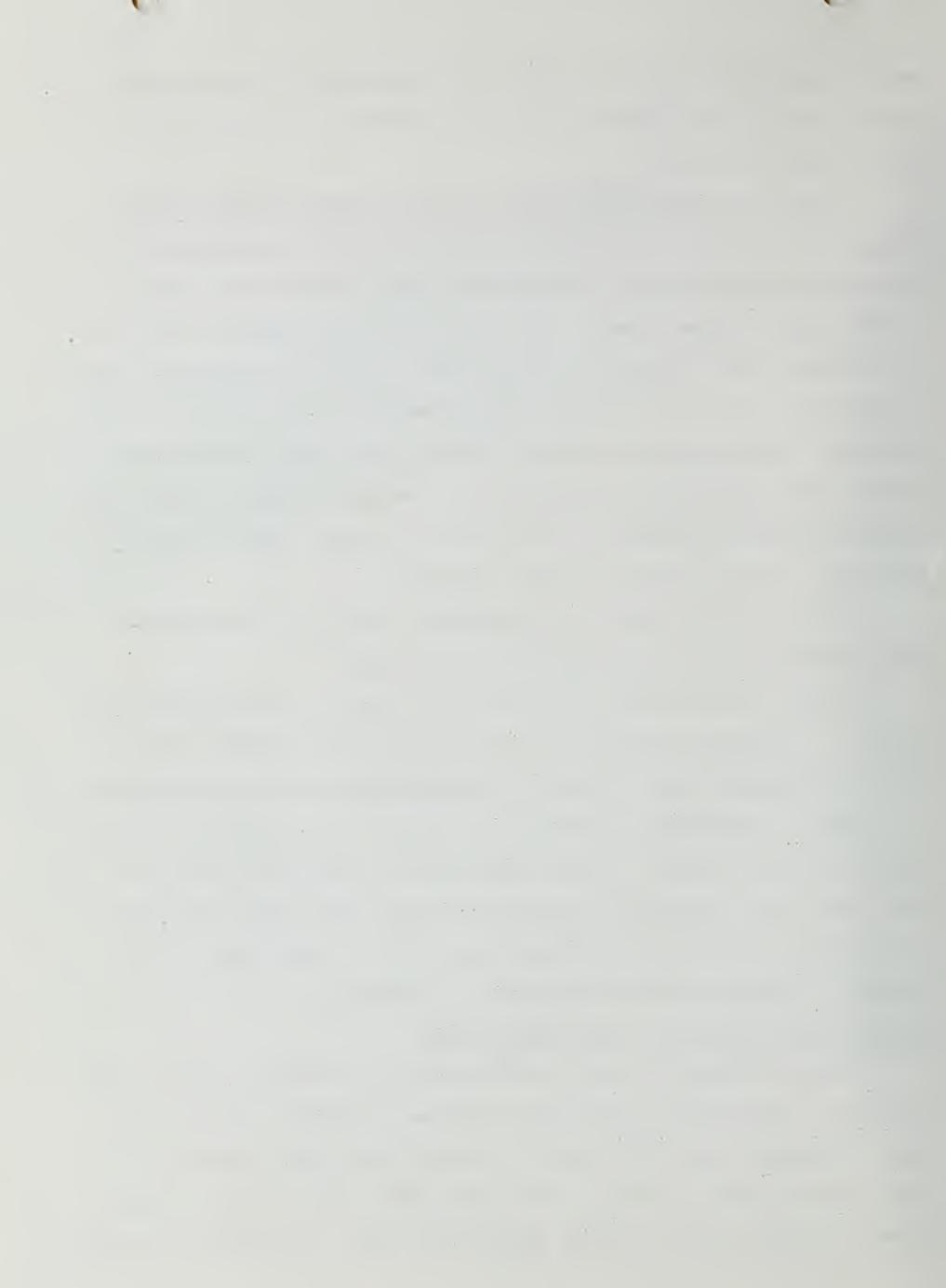
First, whether jurist or professional worker, we all have a responsibility to promote mutual understanding.

Second, our channels of communication must be effective and unclogged. Reports to the court which are clear and scundly based on good investigation will do much to promote understanding and respect.

There is something practical we can do about improving communication with our courts. We can bring our professional discipline into such close proximity to the responsible legal entity that the two are intermeshed into a single weapon for the protection of society. Effective investigation is a beginning.

PLANNING AND CONDUCTING THE INVESTIGATION

One main purpose of the investigation is to prepare for writing a report. The value of the report will be in direct ration to the care, diligence, and skill that is used in the investigation. It must disclose the following: What happened? What are the circumstances bringing the defendant before the court? What kind of person

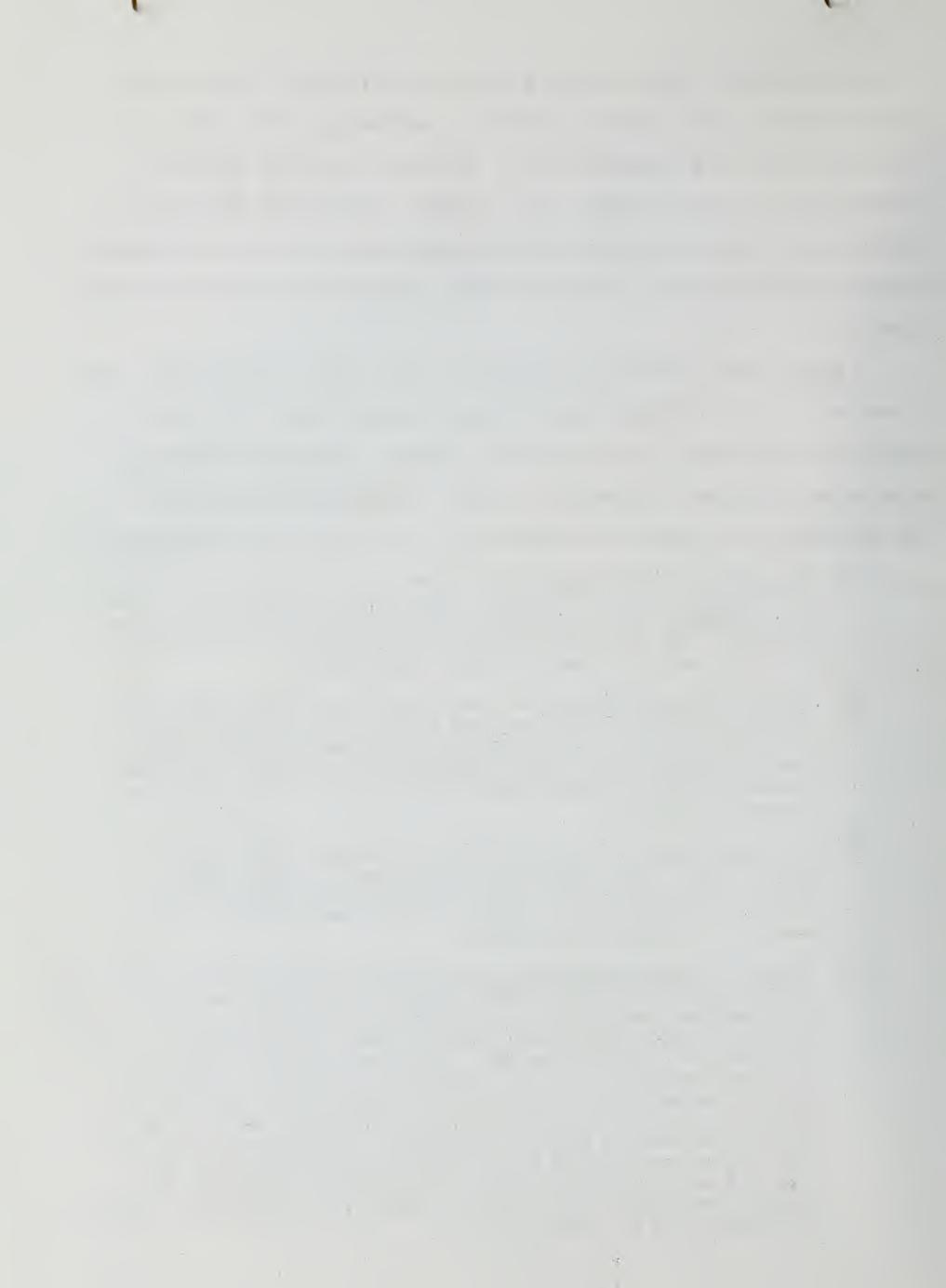


is the defendant? What are the physical, emotional, mental, cultural, familial, and economic forces in his background? What are his limitations and potentialities? How can the above facts and observations be analyzed in a way in which significant material is related and synthesized and in which extraneous matter is eliminated? How can the foregoing be developed into a logical plan and recommendation?

A poorly done investigation can be worse than none at all. Such a travesty can do positive harm to the defendant, the court, the probation department, and the general public. Probation officers work under pressure. Therefore, careful planning is necessary.

The following is a plan for conducting a probation case investigation:

- (1) Put first things first.--Examine what information you have: the arrest report, criminal complaint or information, intake report, your own files, and verbal and written complaints. There will indicate what course the investigation may take and what must be done immediately.
- (2) Start the ball rolling.--Start early on items which will take time. What citations and notices need to be sent to distant points? Is a psychological test needed? Dictate any correspondence which must go out of town. Are some agencies slow in furnishing information? If so, get your request in early.
- (3) Plan your work.--Set yourself deadlines. What should be done first? Who should be interviewed? Why? When? Where? In what order? Make appointments and itinerary in accordance with the plan of the investigation. A workbook or folder will help.
- (4) Select information that is significant.--Selection is the key to good probation investigation. From the mass of information you find as you conduct your investigation, important and significant points must be identified. Much of what you discover is not important. What should be treated casually and what should be thoroughly explored? The following is an example: You discover young Pete was given a speeding ticket 6 months ago. This may not be worth more than a passing notation. But suppose you find the ticket was issued at 4 o'clock in the morning; the car had empty whiskey bottles in the back seat and the parents were not aware the boy was out of the house. Deeper probing would be indicated.

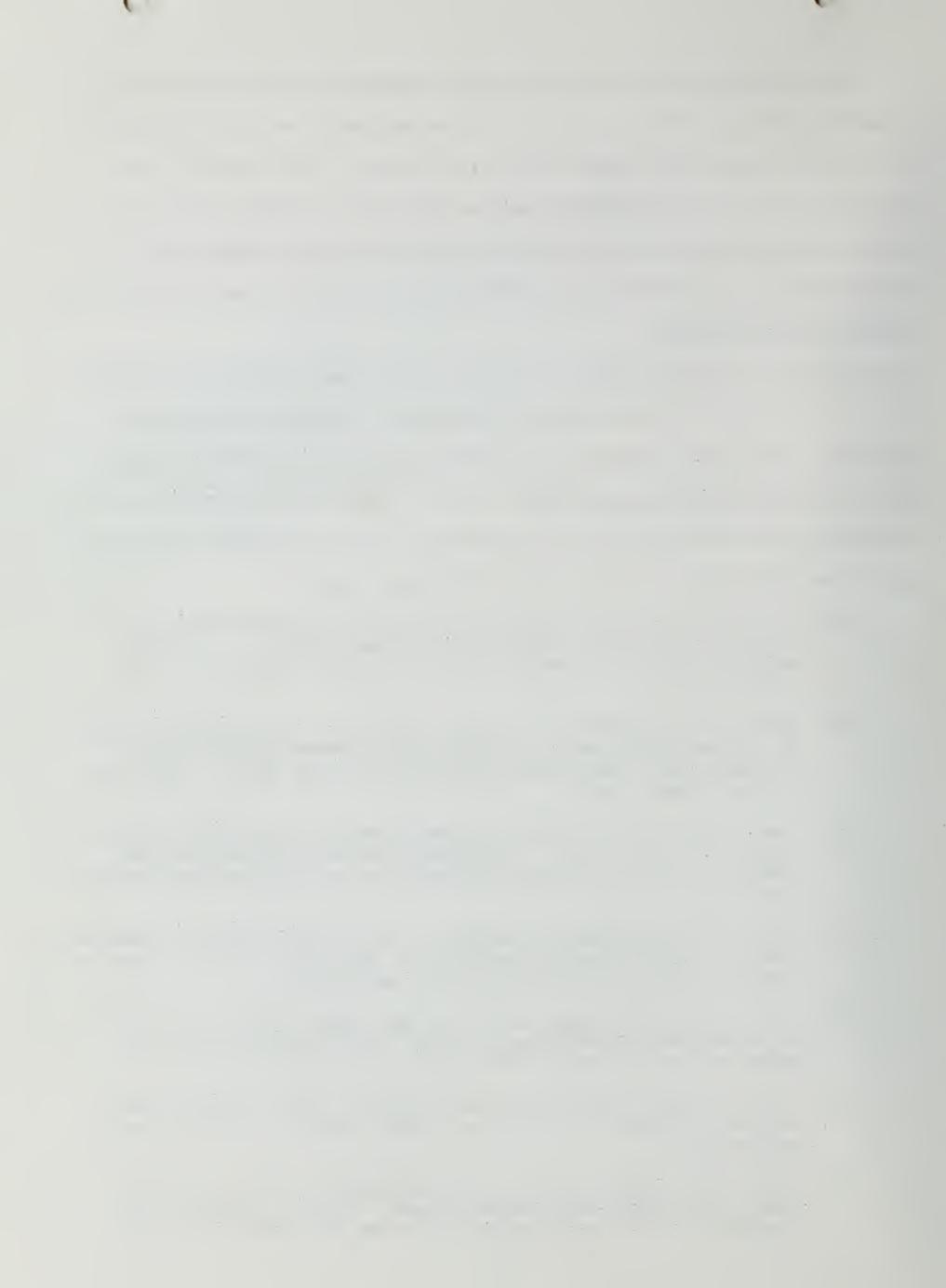


Your investigation and subsequent treatment will be guided by identification of what is crucial and essential. An investigation need not be completely exhaustive to be valid. For example: the personality of the grandfather may be important if the subject is residing with him; however, if the old gentleman has been dead for some years, it is unlikely that his character will be worth exploring.

SOURCES OF INFORMATION

Interview with the defendant --Our most important source of information is likely to be the defendant himself. The first interview should be soon after the case is referred, usually within 24 hours after referral if he is detained. At this time we are seeking facts, interpreting our own function, and establishing a working relationship. We will want to cover the following points:

- (1) We should not cause anxious suspense by unnecessary postponement of direct discussion of the offense. A good approach is to introduce material which reflects a personal interest.
- (2) What is the defendant's role? Was he a leader and planner? An active follower? A passive and casual participant? Who were his associates and what are they like? How does he feel about them?
- (3) What pattern of behavior appears and how does the present trouble fit into it? Is there a record of juvenile arrests? How do previous difficulties relate to the present situation?
- (4) What about his general health: Had he had recent illnesses? Does he have chronic complaints? Can there be any connection between his health and his behavior?
- (5) What is his emotional state at the time of the interview? Is he defiant, withdrawn, stoic? Can you discover anything about his basic attitudes toward authority?
- (6) If in school what are his attitudes toward teachers and fellow students? What about scholarship, interests and aptitudes?
- (7) What about work history, experience and skills, present job, and future employment plans? This is crucial information. It can be basic to a recommended probation



plan, and it may reveal much about the client's personality. What, for example, are his attitudes toward bosses and others in authoritative positions, and his tolerance toward frustration. Has he shown ability to "stick" or does he drift from job to job?

(8) What about his family relationships? How does he feel about his parents, his wife, or other family members--and they about him and one another? What are the family customs, attitudes? How do these things relate to his difficulties?

OTHER AGENCIES

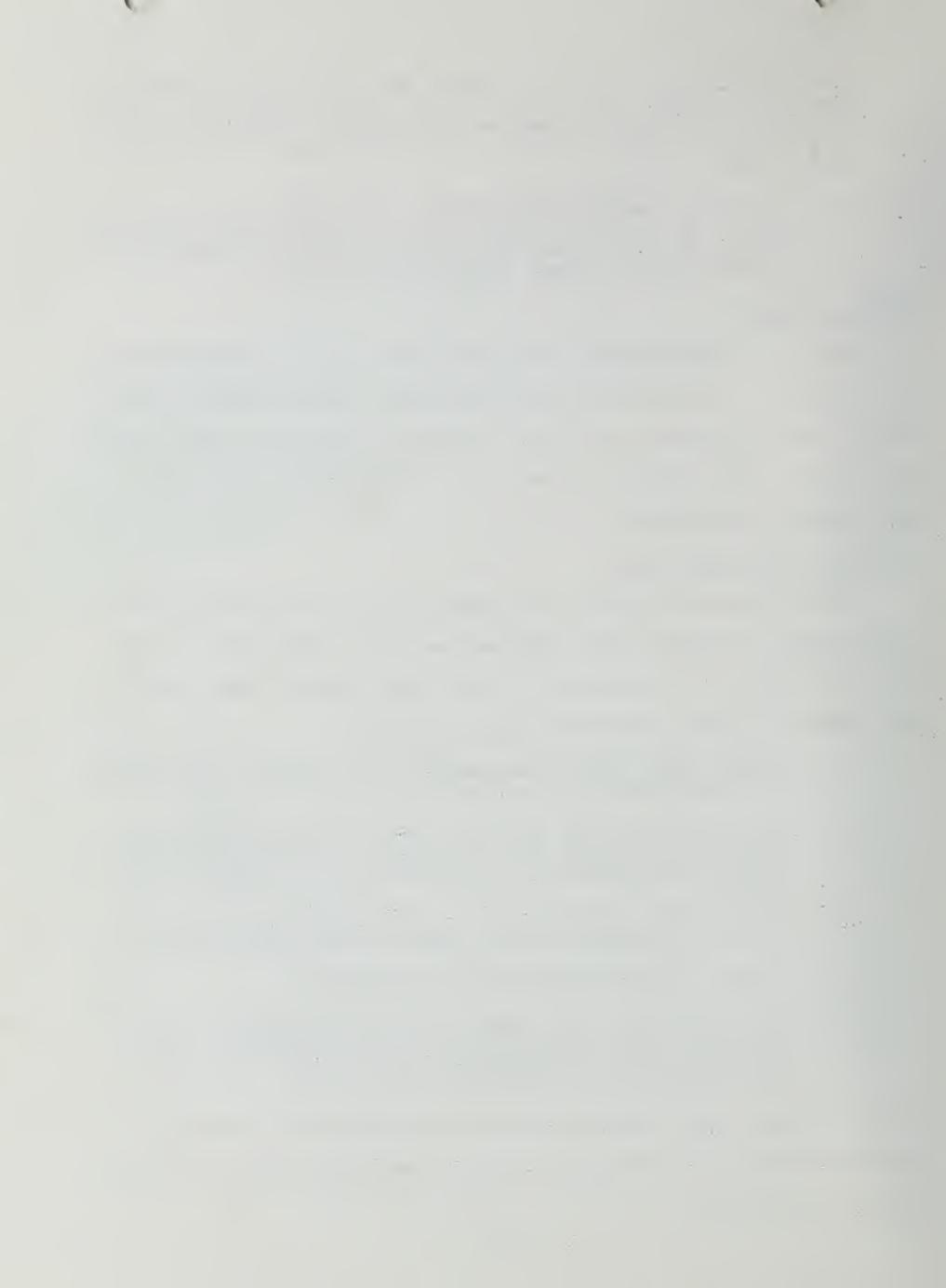
There are many agencies which may help us in our investigation, such as public and private welfare agencies, public health departments, youth organizations, etc. We must be selective among those we contact. The progress of our investigation will reveal need for further exploration.

ANALYZING THE INFORMATION

The foregoing information is essential to your investigation. Now it must be organized and analyzed so that a meaningful report may be written. Are you ready to write your report? You are if the answer is "yes" to the following questions:

1. Did you plan your investigation? Did you use the sources of information which applied to the case at hand?
2. Were you selective? Did you follow leads to significant information instead of wasting time on the mass of irrelevant information you might have pursued indiscriminately?
3. Did you keep a record of your investigation as you proceeded so that you did not forget significant facts?
4. Did you use good interviewing techniques?
5. Do you feel that you understand what happened? Do you have well founded beliefs as to why it happened? From the information you gathered, can you make a sensible recommendation as to what should be done?

If so, you are ready to prepare a written report for the judge. You have served as his arm, and now you can communicate the results of your work to him.



WRITING THE REPORT

Reports are a means of conveying information and opinion, and it would be well to examine the specific functions of a probation officer's reports to the court. Briefly, they fall into four major categories: (1) for information and guidance of the judge; (2) As a nucleus for chronicling the department's work on a given case; (3) As a source in making referrals to other social agencies; and (4) For use by state agencies when commitments are made.

If reports are to serve so many purposes well, they must be comprehensive, diagnostic and complete, accurate and concise. More than this they should have eye-appeal. They should entice the reader. One might ask, "Is this necessary in a technical and scientific report?" The answer lies in the maze of papers to be found in any case file, or among the stacked reports on a judge's desk. To be sure that your report is going to be read, it is well to make it as attractive as possible. This can be done in several ways.

The lure of typography.--Nothing is quite so "dead" as carbon copies of single-spaced, solid typewritten pages, with narrow margins and long paragraphs. Copy can "come to life" if some words are underlined. Easy reading is promoted by short paragraphs, large margins and indentations, intriguing quotes set in a paragraph by themselves, and use of indentations when enumerating a group of words, phrases, or sentences.

Variety is the keynote to good typography. A longer paragraph is acceptable if flanked by subheads or short paragraphs. As a matter of fact a solid page of short paragraphs can be monotonous. Four pages of well-spaced, attractive copy is much more likely to

be read than two pages of "dead" copy.

Paragraphing.--If the only aim is to be grammatically correct, any good grammar book will outline rules for paragraphing. This normally will result in each paragraph being devoted to a single subject or thought, with good transition from preceding to succeeding paragraphs. Since paragraphs will usually be long, this can result in extremely "dead" copy. Only the most conservative suggest that these paragraphing rules be followed to the letter.

At the other extreme stands the newspaper man who never allows a paragraph to exceed five or six typewritten lines, regardless of content or transition sentences. Typography is to him the most important thing, and little effort is made to group sentences according to logical thought processes.

Somewhere between these two extremes lies the target for writers of court reports. Paragraphs should be kept short, but some logic should prevail in grouping sentences. It is frequently a good idea to set important quotes in a paragraph by themselves. They thus catch the reader's eye.

A treasure house of words.--Roget's Thesaurus calls itself a "Treasure House of Words." It is a handy tool. The right word in the right spot may have phenomenal impact. It is said the Army completely revolutionized an entire teaching process by substituting the word "squeezing" for "pulling" a trigger. Generally simple words are preferable, but if only a technical term will suffice then it and it only should be used.

One little word after another.--Many times we dictate sentences we would never dream of writing. Dangling participles, involved parenthetical phrases, and awkward sentence structure may sound

acceptable with your built-in pauses, asides, and inflections. On paper they do nothing but confuse the reader. Most sentences should start and finish in 25 words or less. Only infrequently will sentences have to be over 30 words. Important facts should be presented first, with amplification and detail coming in subsequent paragraphs. Our reports can not, and should not, be wholly devoid of personal comment and personal opinion, but we must exercise care in labeling opinion or hearsay evidence as such.

Just as a probation investigator needs a general plan for conducting his investigation, so does he need a guide for preparing a report. A rigid blueprint would be self defeating because each investigator has his own approaches and every case investigated has different characteristics. One chief probation officer told us he encourages his deputies to be flexible in following a report outline. This policy prevents slavish conformity which would result only in wasted time and energy on the part of professional and clerical staff.



T H E F A C E S H E E T

THE FACE SHEET

Page

Introduction



ADULT PROBATION DEPARTMENT

Prob. # _____

1 Name _____ Dept. No. _____ Court No. _____ Date _____
2 Address _____ Height _____ Weight _____ Hair _____ Eyes _____
Zip _____ S. S. # _____

3 Living with _____
4 Offense(s) _____ Date of arrest _____
5 _____ Weapon or Violence _____
6 Codefendant(s) _____ Attorney _____
7 Guilt determined by _____ on(date) _____
8 Custody status: _____ Days custody _____ OR, bail, bond _____
9 Complainant and address _____

PRIOR CRIMINAL RECORD

10 Total prior arrests _____ (_____ felony; _____ misdemeanor; _____ juvenile)
11 Total prior convictions _____ (_____ felony; _____ misdemeanor; _____ juvenile)
12 Prior grants of probation _____ (_____ successful; _____ failure; _____ current)
13 Prior jail sentences _____
14 Prior prison sentences _____

PERSONAL DATA

15 Age _____ Date of birth _____ Place of birth _____
16 Sex _____ Race _____ Religion _____ Highest grade completed _____
17 Marital status _____ Number of prior marriages _____
18 Name and address of parents _____
19 Dependents (name, age, supported by) _____

20 Employed by _____ as _____ since _____ of \$ _____
21 Last two years: Number of job changes _____ Total months employed _____ Longest job _____
22 Number of residence changes _____ Time in Calif. _____; in S. F. _____
23 Military service: No _____ Yes _____ From _____ to _____ in _____
24 Type of discharge _____ Highest rank _____ Service No. _____
25 Family Criminal Record: Yes _____ No _____
26 Alcoholic Involvement: Yes _____ No _____ Drug Usage: Yes _____ No _____
27 Homosexuality: Yes _____ No _____ Mental illness: Yes _____ No _____
28 Aliases _____

29 Recommendation of Probation Officer: _____

30 Disposition in court: _____

31 Judge _____ Probation Officer _____



THE FACE SHEET (AP21)

(To be used in pre-sentence reports and summary grants of probation except for Drug Diversion cases for which a separate face sheet is to be used.)

The essential purpose of a Face Sheet is to make available to an interested person, in a concise and immediately visible form, certain basic information about the client. Some of this information is common to most face sheets (such as name, address, physical description, etc.); other information will be of a type peculiar to the legal framework within which you are working (such as the offense committed, custody status, prior record, etc.). In either case, the information contained on the face sheet should be as accurate as possible, and should be entered in a way which eliminates doubt as to what is meant. Also, be sure that every line on the face sheet is filled.

One might suppose that the "answers" to put on the face sheet are essentially self evident. As will be seen below, this is not always the case. For this reason the following is a line-by-line review of the face sheet, with clarifying information concerning certain entries which are not as self-evident as they appear to be:

Line 1

Name: The name to be placed on this line is the name which is written on the Court Slip, inasmuch as this is the name which appears on the Court Calendar.

In talking with the client, you may find that his true name is something else. If this is the case, enter his true name just above, and in the following way:

True name: John Williams. Do not place other aliases



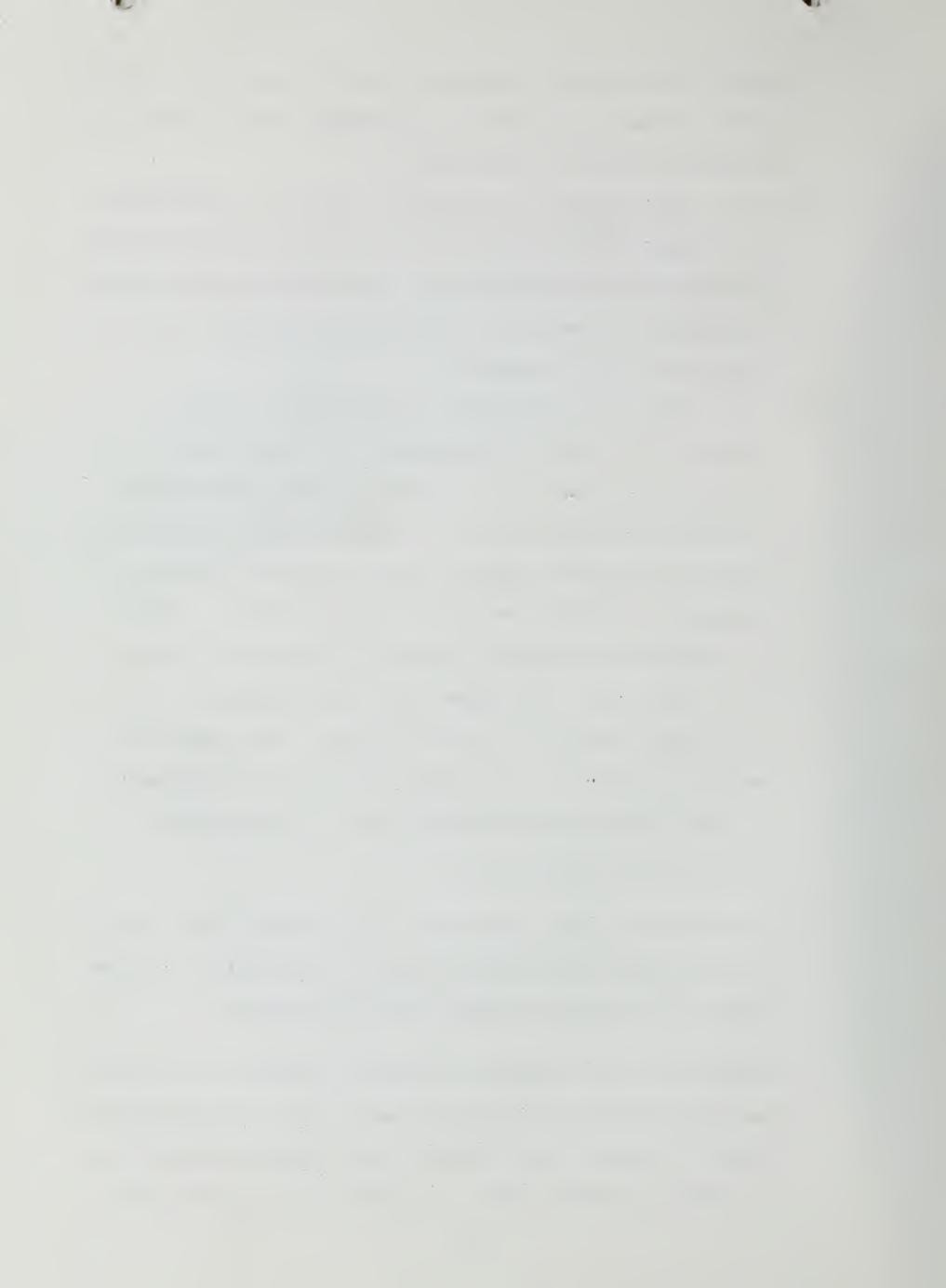
which the defendant might be using at the top of the face sheet, inasmuch as there is a special line for such names near the bottom of the sheet.

Dept. No.: Use the Court designation (MC or SC) and Department number (MC 15 or SC 24) as found on the court slip. This is important information especially in the case of a Pre-Sentence report, which might go astray if the information is not accurate.

Court No.: Every name on a court calendar has a number opposite it. This is the method the court uses to keep track of both defendants and charges which have been placed against them. If a person has been charged with more than one offense (which is quite common) a number will usually be given to each offense. These are usually in numerical order, but sometimes they are not. Sometimes a defendant will be found guilty, or will plead guilty, to only one charge, the others having been dismissed. In which case, it is essential to use the number which has been given to the specific charge under consideration.

From what has just been said, it is evident that Court action numbers are very important, especially in a case where a pre-sentence report has been written.

Municipal Court numbers are always preceded by a letter, such as "D18976"; each year a new letter (in alphabetical order) is used. The Superior Court numbers do not have a letter preceding them. In either case, court numbers



are important; make sure that you have the correct number on a motion or report which is being submitted to the court.

Date: If the face sheet is to go with a pre-sentence report, the date of sentencing is used. In the case of a summary grant of probation, the date on which probation was granted is used.

Line 2

Address: This information is obtained directly from the defendant, if possible, or from his "Rap Sheet", which is available through the Bureau of Identification of the Police Department on the fourth floor of the Hall of Justice.

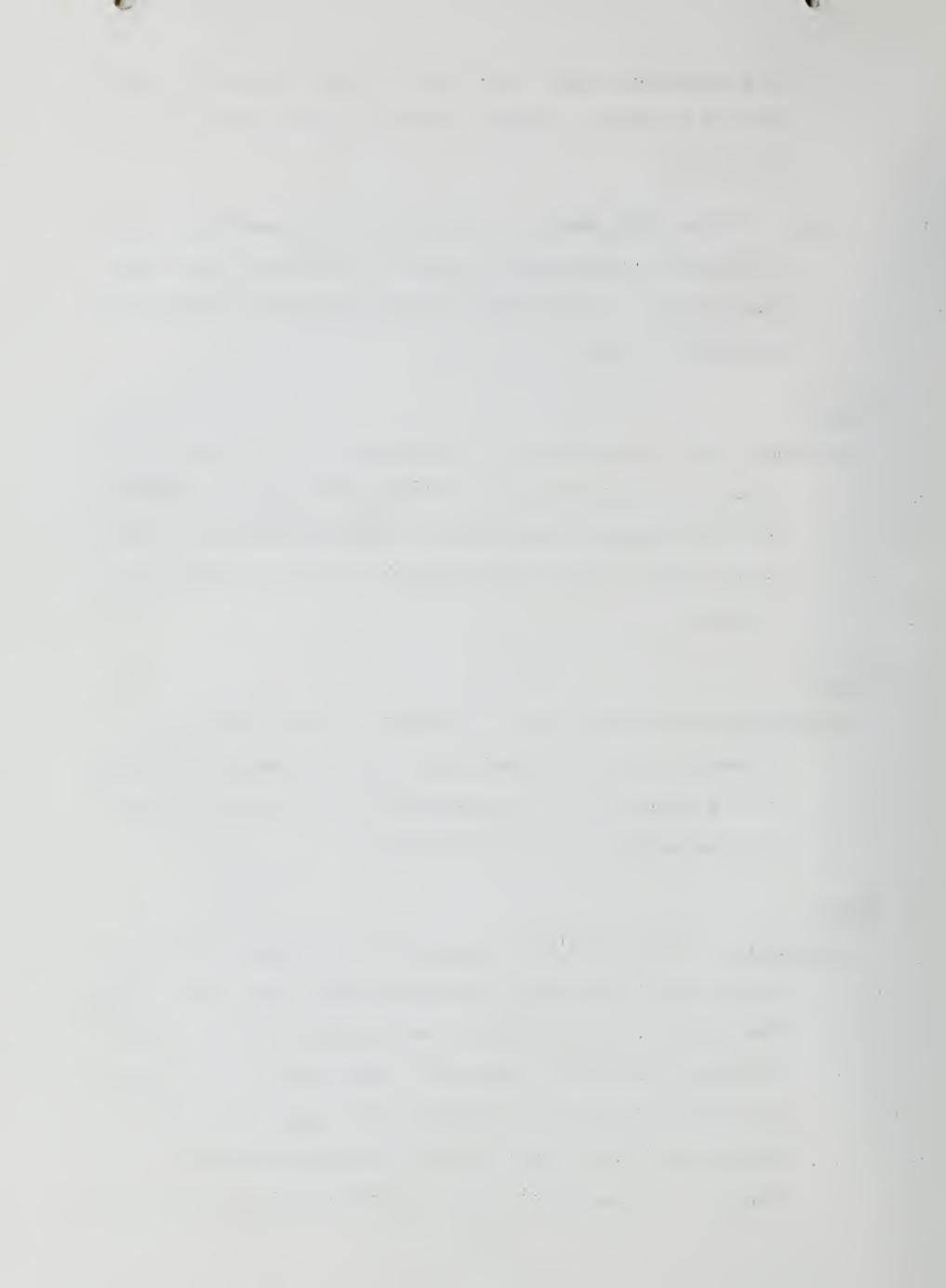
Line 3

Living with: List the person by name, such as Mother, parents, Sister, Brother, etc. If a defendant is living with a person of the opposite sex, try to get the name of that person, or state "Friend".

Line 4

Offense(s): Enter the Code designation, followed by the code section violated, following which place in brackets the nature of the offense. An example of this is the following: 211 P.C. (Robbery). When there is more than one degree of the same offense, the degree should be stated, e.g.: 211 P.C. (Robbery, Second Degree).

Note: It is essential that the Code Designation be given;



a number without one is meaningless!

Date of Arrest: Obtain this directly from the arrest report, copy of which should always be obtained. If you are writing a Superior Court pre-sentence report, you may find that the offense about which you are writing does not appear on the rap sheet. Generally this will mean that the defendant has pleaded to a lesser and included offense, which does not show on the rap sheet. An example of this would be a guilty plea to a 496 P.C. (Possession of Stolen Property), which is lesser and included to a 459 P.C., (Burglary). This can also happen in the case of a summary grant of probation: the defendant was booked for violation of 245 P.C. (Assault with a Deadly Weapon), but pleaded to the lesser and included offense of 240 P.C. (Assault).

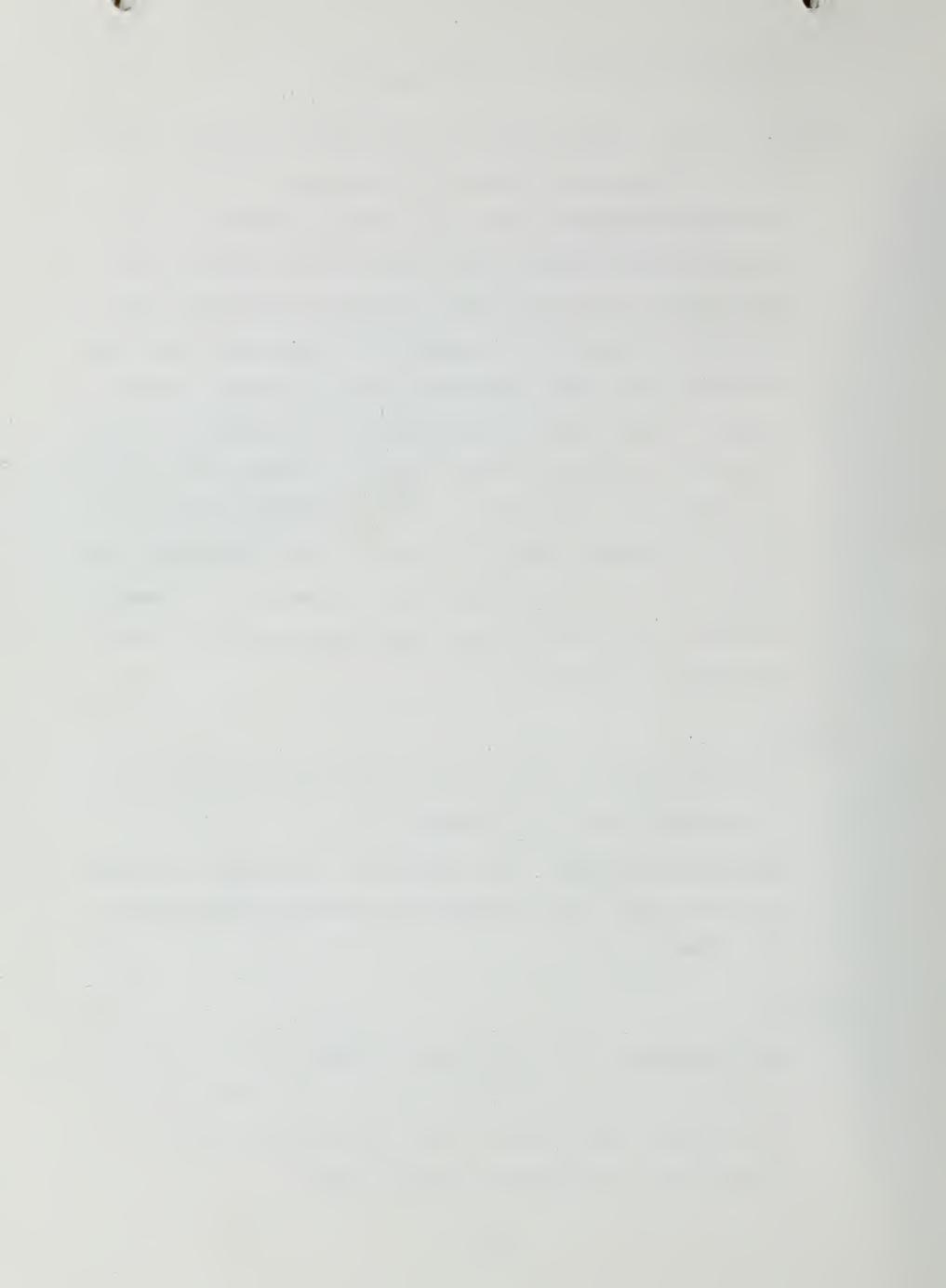
Line 5

The first part of this line is used for additional offenses which cannot be listed on line 4.

Weapon or violence: List any weapon employed, including fists or feet. If no assaultive behavior was involved, say "None".

Line 6

Co-defendants: Give the names of those persons who were arrested with the defendant and were later charged with an offense, even though it may be a different one. If there are no co-defendants write "none".



Attorney: List the attorney's name as given by the defendant. If the defendant had a Public Defender, but does not know his name, you can obtain it readily by asking at the Public Defender's Office down the corridor.

Line 7

Guilt determined by: A defendant can plead "Guilty" or "Nolo Contendere", or he may be found guilty, either by a jury or by the Court. The court slip should indicate how guilt was determined. (Do not indicate that defendant pleaded "not guilty")

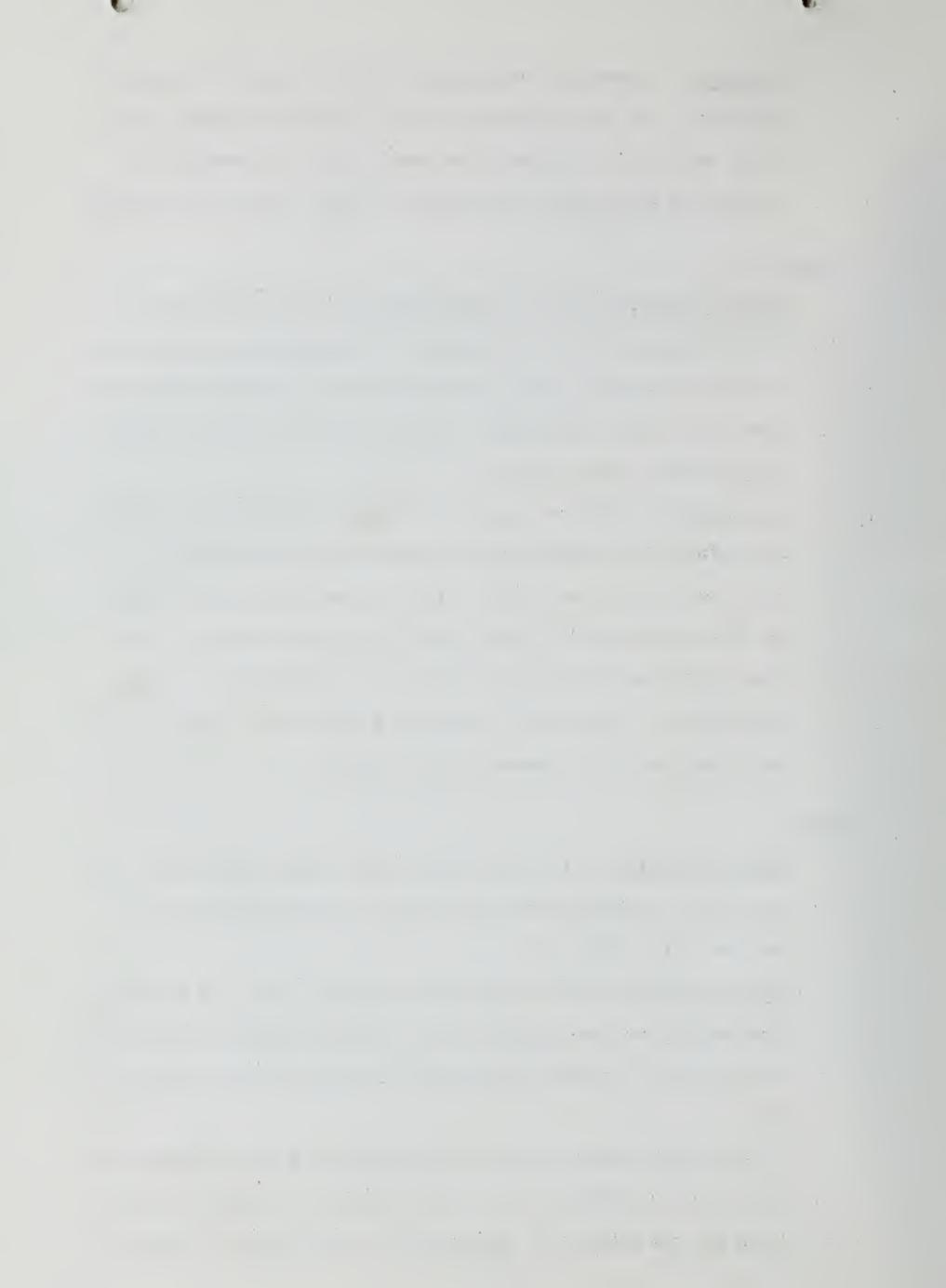
on (date): This is usually the date on which the matter is referred to the Probation Department, and will be found on the Court Slip. (It is usually the same date as the one shown on line four of the Court Slip.) Ask the defendant on what date guilt was determined, since sometimes a judge will put over a case for a week or so, and then ask for a presentence report.

Line 8

Custody status: In this space enter only the words "In" or "Out"; the defendant is either in custody, or he is out on bail, OR, etc.

Days custody: In the case of a summary grant of probation, the defendant can usually tell you how long he was in jail after being arrested and before being released on bail or OR.

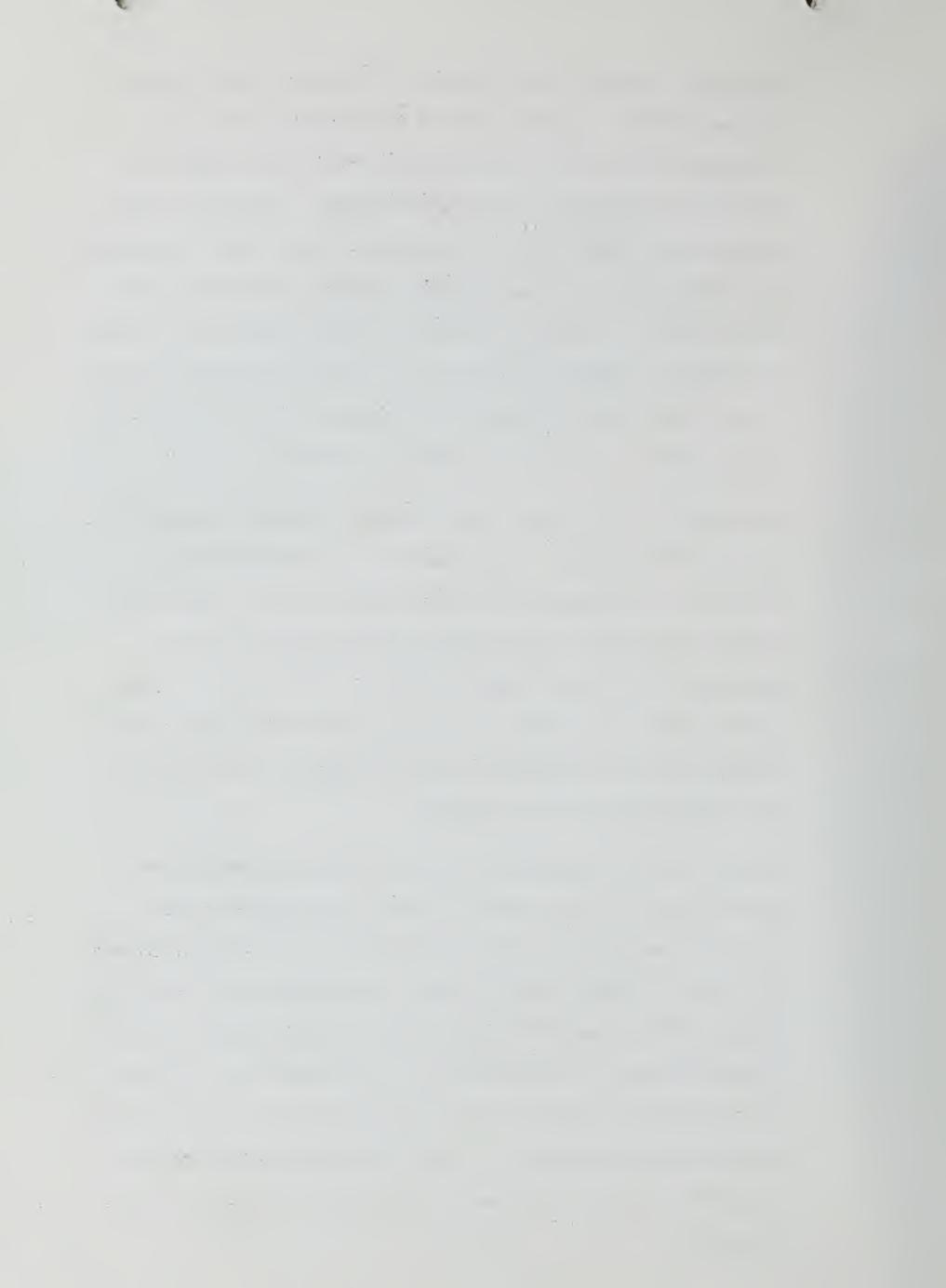
If the Face Sheet is to be attached to a pre-sentence report, it is important that this entry is accurate, inasmuch as the court, in sentencing a defendant to time in



custody, usually will give him credit for time already served (CTS). In the case of a Superior Court pre-sentence report, it is especially important that the days in custody be accurately figured; and some times this is not easy to do, inasmuch as such time is usually a combination of time in City Prison, plus time in the County Jail. (If not on Bail or OR, a defendant waiting sentence in Superior Court will usually have been transferred from City Prison to the County Jail shortly after being held to answer in Municipal Court.)

Section 1213.5 of the Penal Code now stands amended to provide that anyone committed to the custody of the Director of Corrections (State Penitentiary) must be given credit for time already served in "any city, county, or city and county jail . . . " Thus it can be seen that the time in custody must be figured accurately in any case where a person might be committed to the Department of Corrections.

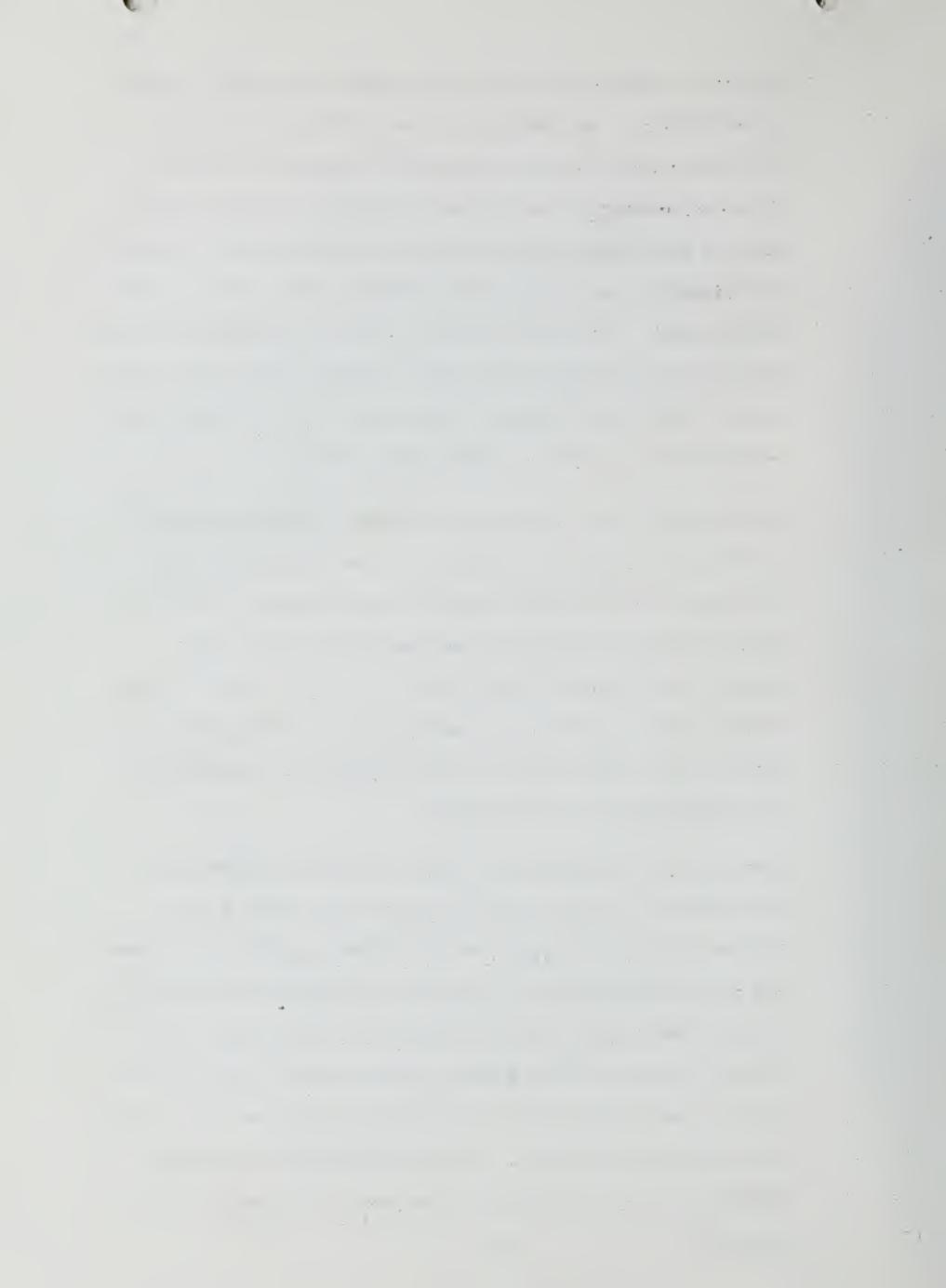
There is now available an Adult Probation Department form which is to be used in every case where a pre-sentence report is being written for the Superior Court. One copy of this form is sent to the Bureau of Identification (4th floor) for the amount of time which a defendant spent in City Prison, and another copy is sent to the County Jail for the amount of time he was in custody awaiting sentence. These two amounts are added together for the purpose of the entry following "Days custody".



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You should keep in mind that a part of a day in custody counts as one day, even though a person bailed out two hours after being booked. For example, a person who was booked at 11 P.M., and who bailed out at 1 A.M. the following day must be given credit for two days in custody.

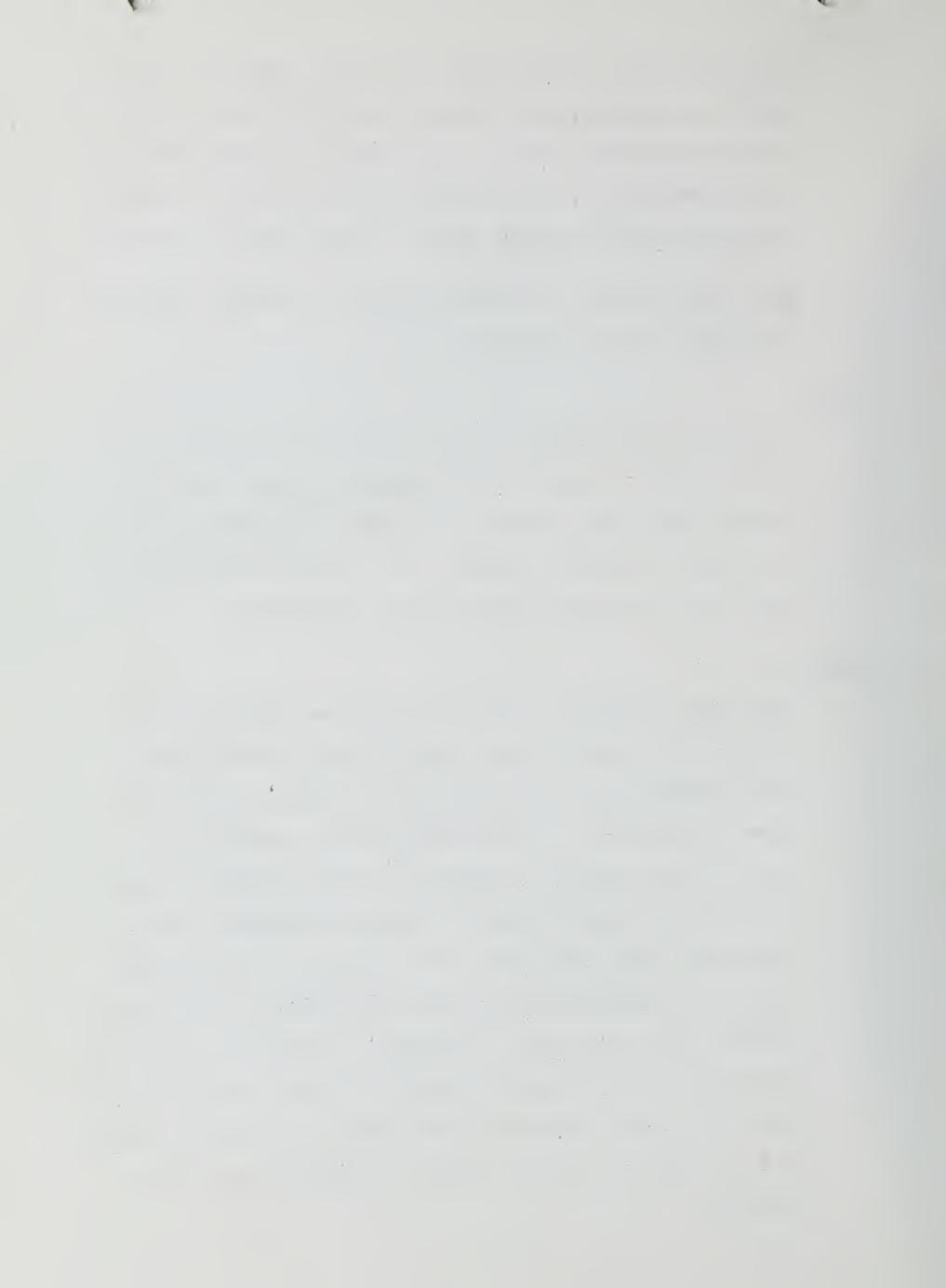
O.R., bail, bond: If a person is not in custody, indicate the reason for his release.

Line 9

Complainant and address: If a crime is one without a victim, such as prostitution, gambling, homosexual behavior, etc., enter "SFPD"; if there is a victim, such as robbery, burglary, battery, etc., enter the name, address, and telephone number of the complainant.

Line 10

Total Prior arrests: First it should be noted that as a result of a recent Court decision, you are to ignore the "juvenile" part of this record, filling in only the other two spaces. In these indicate the number of arrests in each category, keeping in mind that even though the person has been booked for several offenses, they constitute only one arrest. If a person is arrested and later charged with more than one offense, all of the offenses are to be shown. Example: a person is arrested and booked for violation of 211 PC, 245 PC, 148 PC, and 1291 MPC. These constitute one arrest, but four offenses will be shown on the face sheet: 2 felonies and 2 misdemeanors.



Because of the example noted, the number of offenses will usually be greater than the number of arrests.

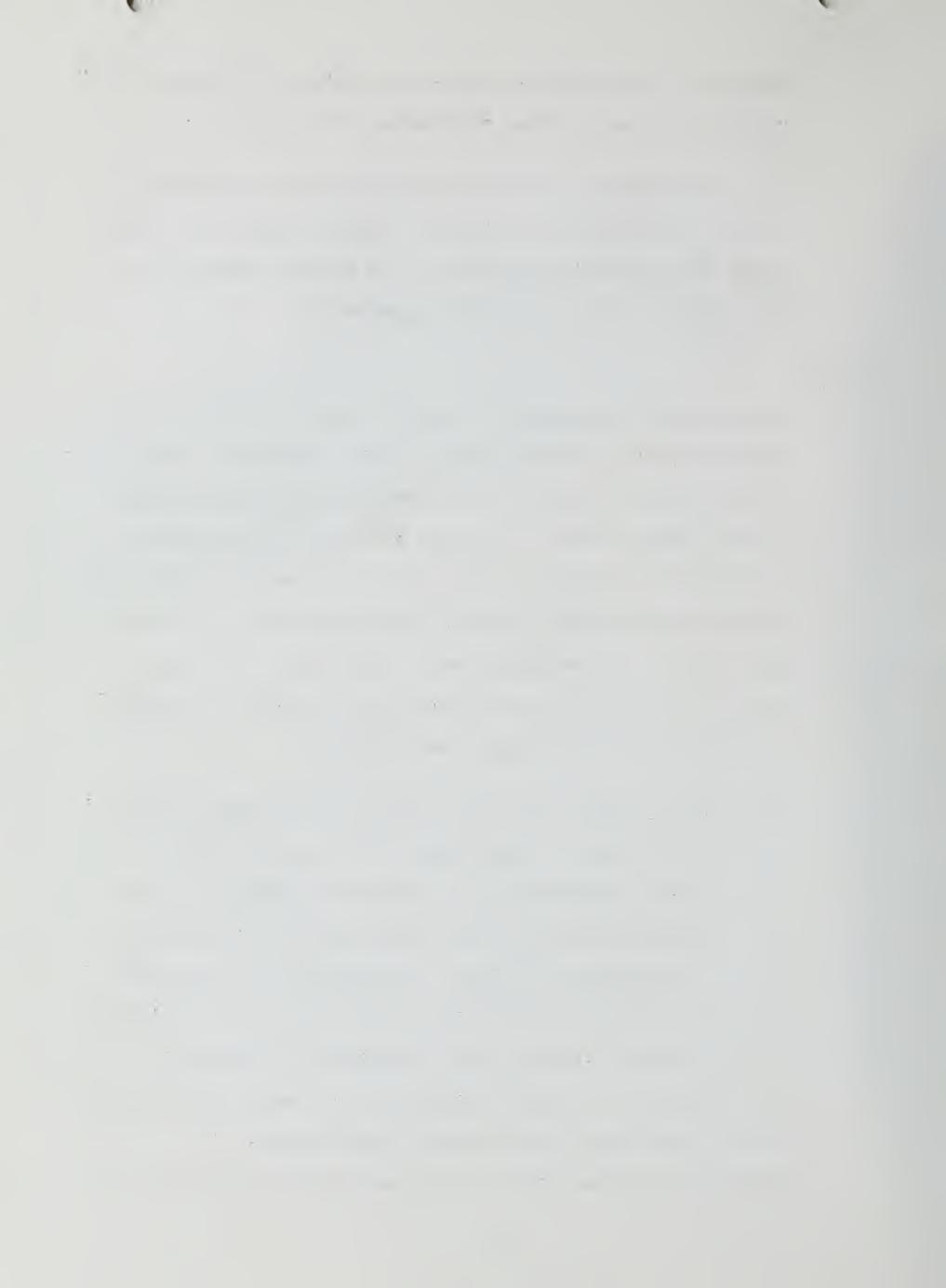
The inexperienced probation officer is not expected to be able to pick out the felony arrests from a rap sheet which has dozens of entries; if in doubt, consult the appropriate code or ask your supervisor.

Line 11

Total prior convictions: Hopefully there will be a disposition opposite every entry on the rap sheet. But if the record is long, you will usually find some entries without dispositions. In such a case, ask the defendant about the outcome; if he can't remember, or says the charge was dismissed, enter "No Disposition" in the report (if you are writing one). Also enter "No Disposition" if you have no information, or there is reason to believe that the charge was dismissed.

One thing to watch for is a felony arrest which is disposed of through the misdemeanor conviction. This is a fairly common occurrence, an example of which is an arrest alleging violation of Section 245 P.C. (a felony), which is disposed of through a guilty plea to violation of Section 242 P.C. (a misdemeanor). It is important to be very careful in labeling a conviction, because for most purposes, a felony conviction is a much more serious matter than several misdemeanor convictions.

Although Juvenile offenses are not listed as such on the



face sheet, commitments to the California Youth Authority are recorded. If a defendant was committed to the Youth Authority as a juvenile, such commitment is counted as a jail sentence. If an adult is committed to the Youth Authority from a Municipal Court, it is recorded as a jail sentence. If an adult is committed from the Superior Court because of a felony conviction, such commitment is recorded as a prison sentence. Whenever you record a CYA commitment, state so on either line 13 or line 14 of the face sheet.

Line 12

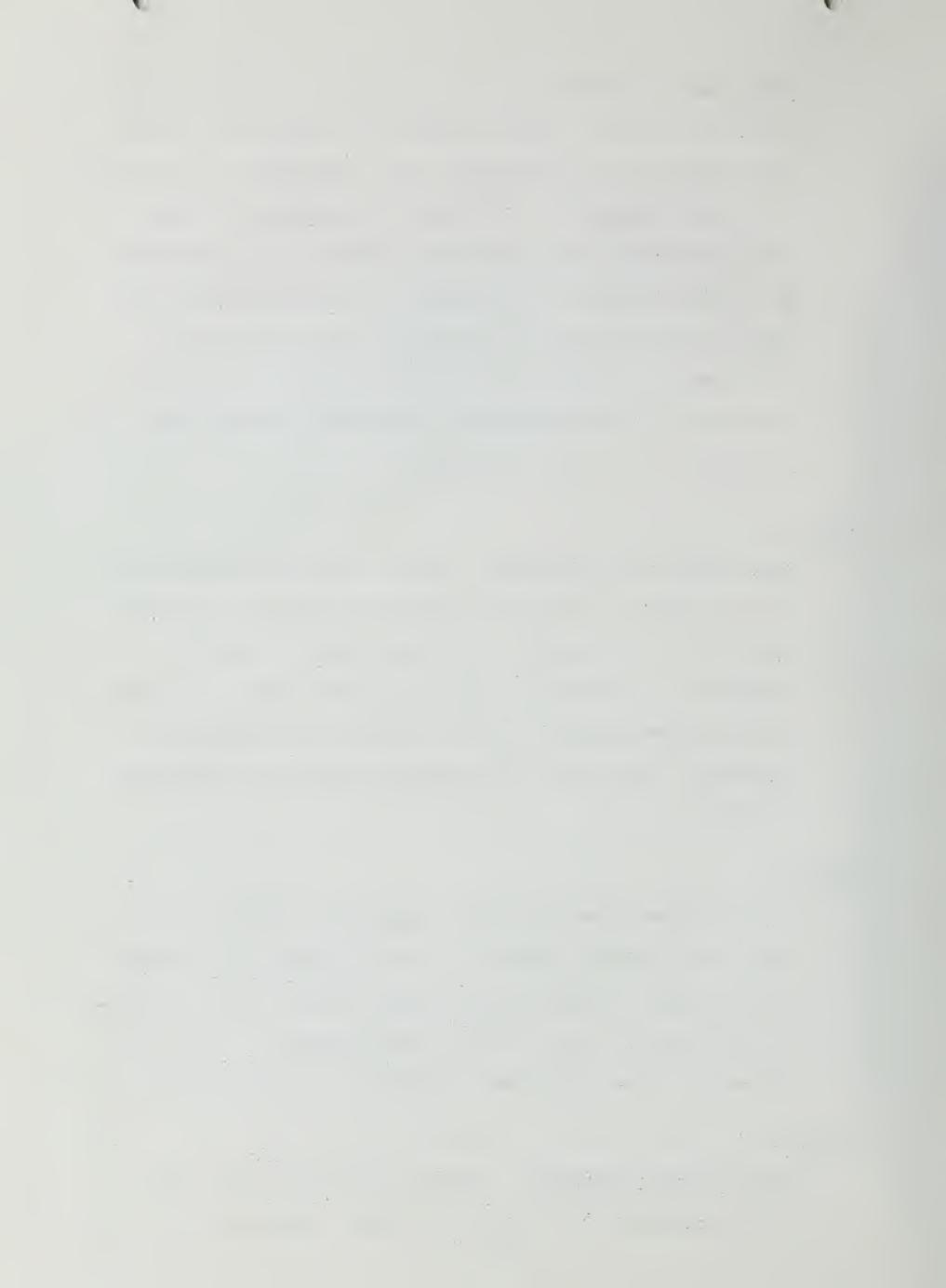
Prior grants of probation: Obtain this information from the rap sheet or from the defendant's record with this agency (if he has one). It is important to indicate "success" or "failure", keeping in mind that if a person has been found guilty of any offense while already on probation, that grant of probation should be considered a failure.

Line 13

This includes even very brief sentences, such as five days for a traffic offense. Also note that if a person is sentenced to time already served (CTS), such a period is considered to be a "prior jail sentence". Then too, CYA commitments are to be considered as jail sentences.

Line 14

Prior prison sentences: Obtain this information from the rap sheets (B of I, CII, or FBI). Sometimes you



will see an entry on a CII or FBI record which is not very clear, but you can usually determine if it indicates a prison sentence by the length of time (usually anything over a year) or by the nature of the offense (murder, manslaughter, robbery, burglary, etc.).

Line 15

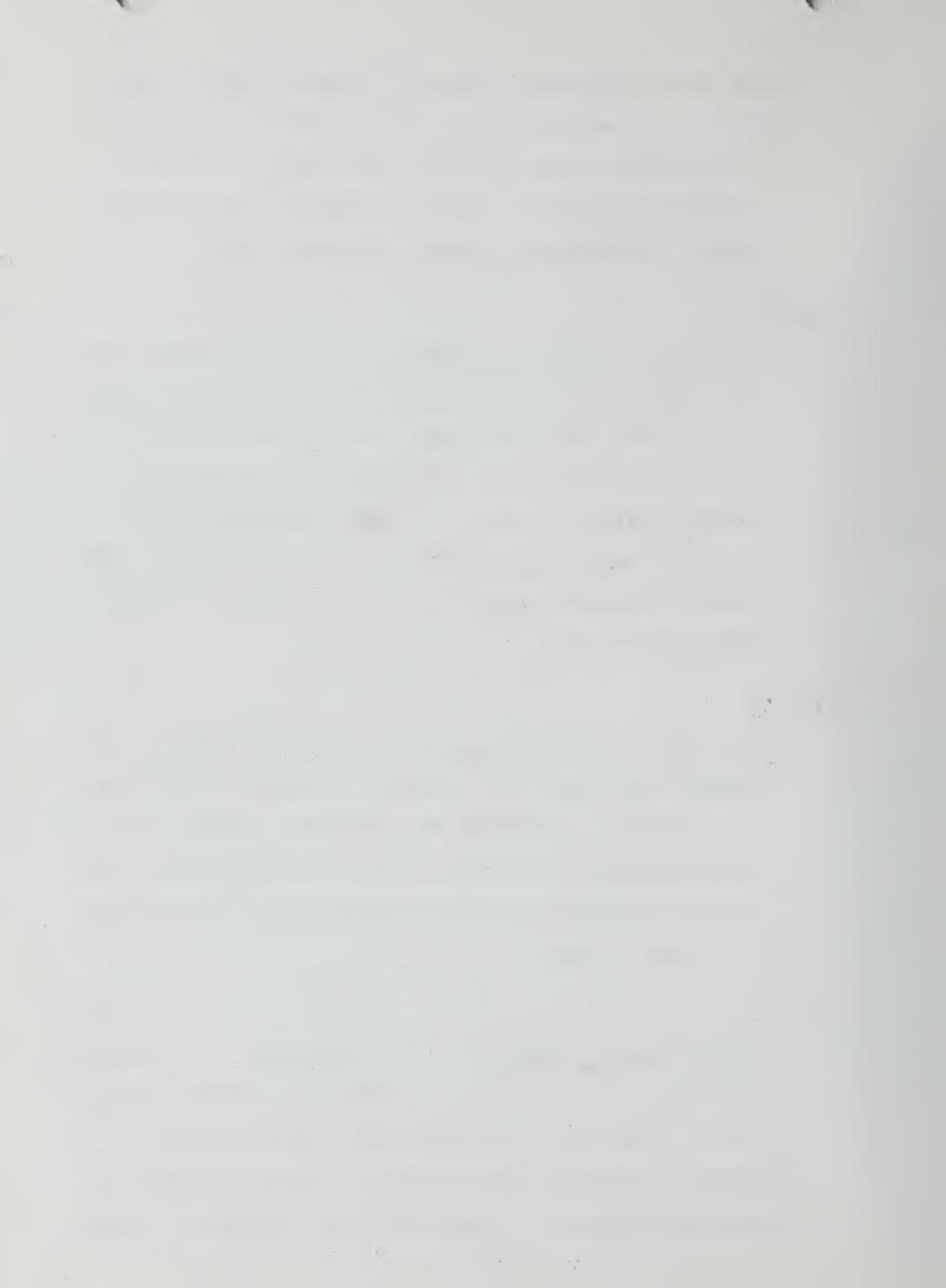
Age Date of birth Place of birth: If the date of birth given you by the defendant is not the same as the one you find on the rap sheet, or in other documents, try to find out what the defendant's real birthdate is. The same applies to place of birth; if a person was born in a small town in another state, ask for the size of the town and the name of the nearest town or city which you recognize.

Line 16

Sex Race Religion Highest grade completed: Don't confuse "Race" with "Nationality"; a person born in India or in Mexico, for example, are considered to be of the caucasian race, even though they may be quite dark. If a person expresses no religious preference, so indicate by a straight line.

Line 17

Marital status Number of prior marriages: One's marital status should be indicated as "Single", "Married", "Divorced", "Separated", or "Annulled". For face sheet purposes, a marital relationship of anything but brief duration, is to be considered as a marriage, even though



it has not been legally recognized.

Line 18

Name and address of parents: If the defendant has a common name, the names of his parents are useful for future identification purposes. In the case of a very young defendant (18-25), the parents are often a source of useful information about the defendant or material and psychological assistance for the defendant.

Line 19

Dependents (name, age, supported by): Names, ages of all children, even those born out of wedlock. Also indicate the source, or sources, of the children's support.

Line 20

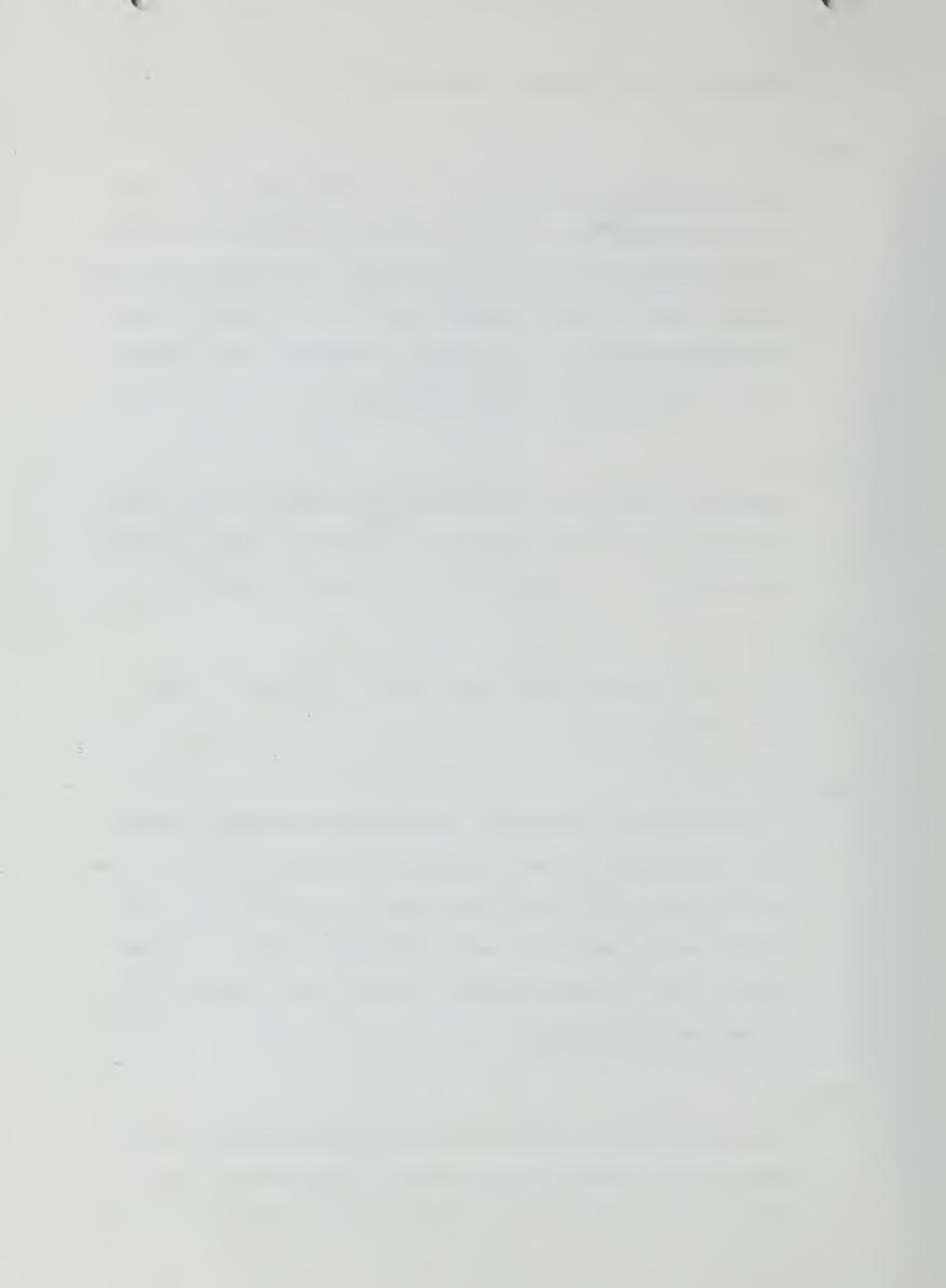
If in the Service, show what branch. If unemployed, enter "Unemployed".

Line 21

It is not every client who can give you precise information concerning his work history, so entries on this line may be little more than intelligent estimates. If the client has had no employment during the past two years, enter 0 after "Number of job changes", and a zero after "Total months employed".

Line 22

The same comments often apply to resident changes as applied to job changes (see above). Fortunately, many clients were born in this state and have always lived here.



Otherwise, estimate the periods of time in accordance with your best guess.

Line 23

Try to get at least the month and year of entrance and separation.

Line 24

If your client states that he was in the military service for less than two years, try to find out why and the type of discharge he received. (There are several types of discharges between an Honorable Discharge and a Dishonorable Discharge.)

Line 25

Make it clear to the defendant that this question is being asked for statistical purposes, only.

Line 26

"Alcoholic involvement" is answered "yes" only if you feel that the use of alcohol contributed to the defendant's illegal behavior. "Drug usage" means the use of illegally-obtained drugs.

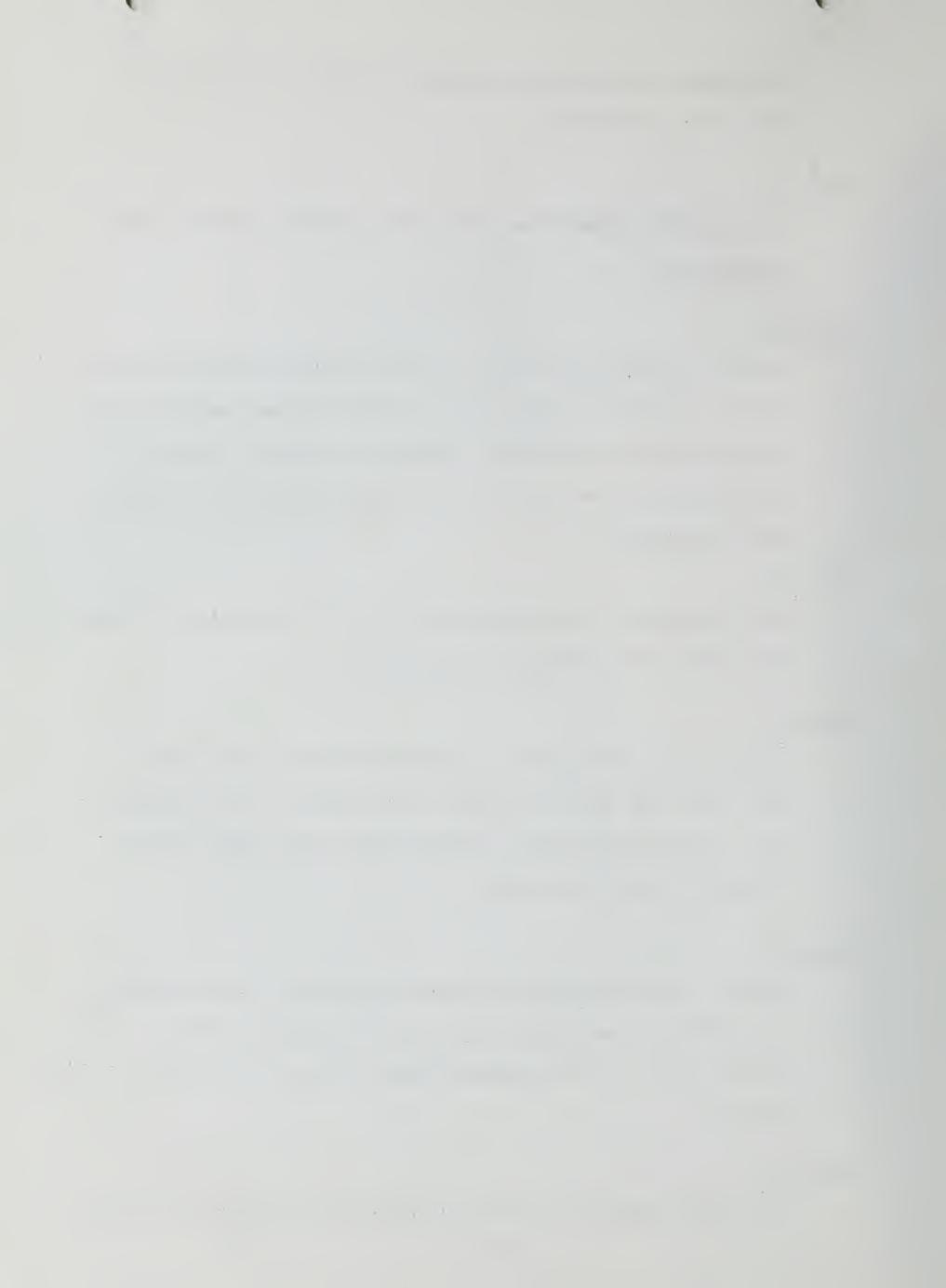
Line 27

Answer yes if homosexuality was involved in the offense, or if the defendant has a history of homosexuality.

Answer "yes" if the defendant has a history of mental illness.

Line 28

Be careful about ascribing an alias when what is involved



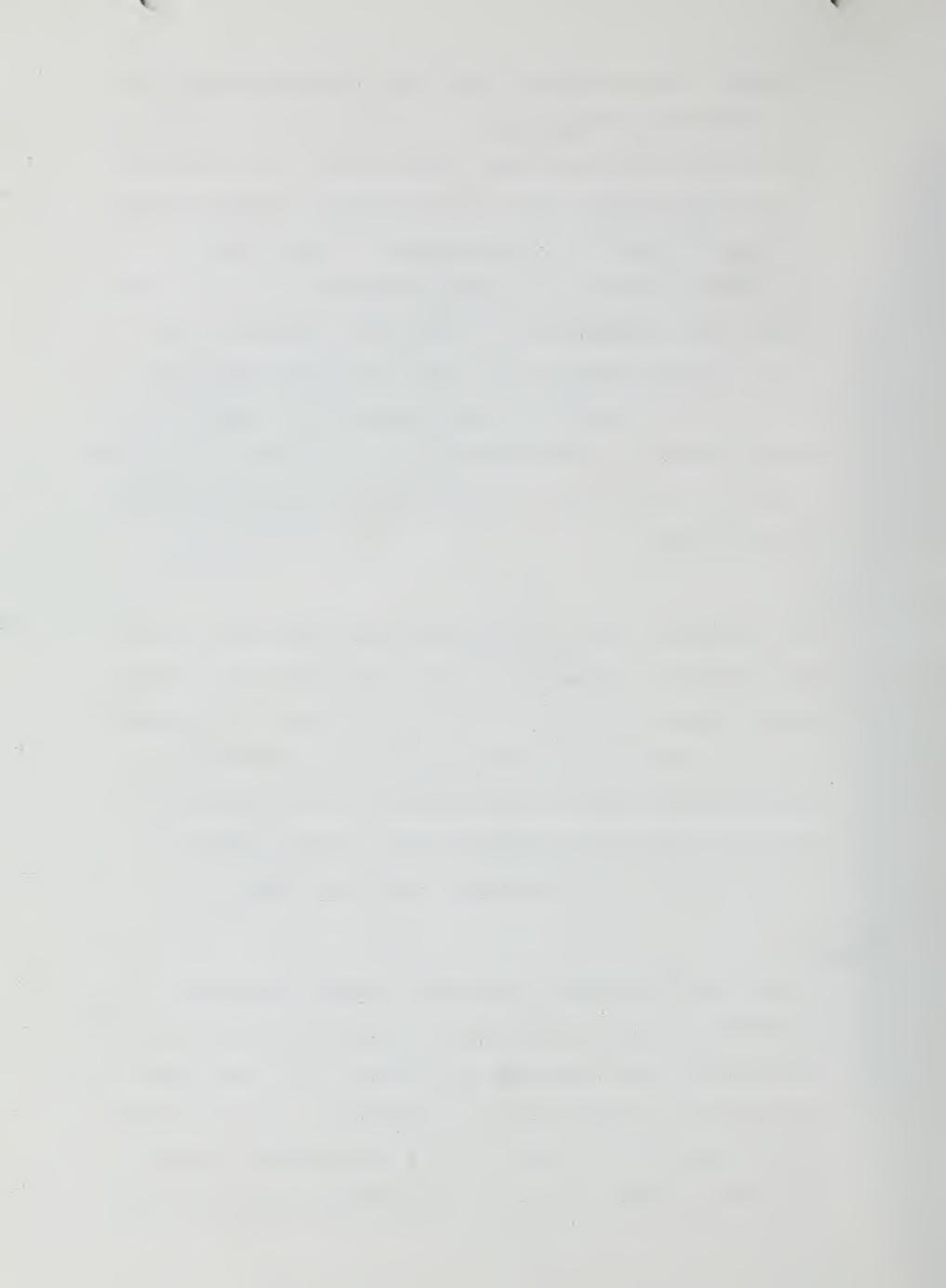
is only a minor change in spelling (Carlson-Carlsen) or a transposition (Reis-Ries). A true "alias" is usually an entirely different name (Smith-Jones), or a different first name with the same common last name (George Wilson-Wilfred Wilson). It is not unusual to find listed on a rap sheet a dozen or so alleged "aliases"; nor is it unusual, upon examination, to reach the conclusion that most of these appear to fit into one of the categories noted above. The use of real aliases has a negative significance, so record them on the face sheet. But don't record "aliases" which are the result of bad spelling or poor hearing.

Line 29

The Probation Officer's recommendation should be specific and should be written out in full if it will fit into the space allocated for it. If it is too long to be recorded in full, shorten it by using abbreviations and deleting non-essential words in such a way as to retain the important conditions you have in mind. Never request a steno to copy a recommendation from some other place.

Line 30

Always start with the exact date on which the court rendered its final judgement, even though it may be the same as the date appearing at the top of the face sheet. (In case of a summary grant of probation, the dates will be the same, but in the case of a pre-sentence report, the date on this line may be considerably later than the



one at the top of the page.) If the face sheet is attached to a pre-sentence report, ALWAYS fill in the date and complete sentence on the original and all copies.

Line 31

Always fill in the judge's first and last name; the same applies to the Probation Officer writing the report or being assigned a case in which probation has been granted summarily.



THE PRE-SENTENCE REPORT

THE PRE-SENTENCE REPORT

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THE PRE-SENTENCE REPORT

Every Probation Officer will be required, sooner or later, to write a pre-sentence report, even though he has been assigned to a caseload for "supervision only". Thus it is incumbent on a Probation Officer to learn the structure and content of a good presentence report. Not only should a pre-sentence report conform to prescribed standards, it must be submitted to the court at least two days prior to the date the defendant returns for sentence. From what has been said, do not assume that you must adhere rigidly to a strict format, but keep in mind that a pre-sentence report is a legal document, for which reason it must be prepared in a form acceptable to the court, a form discussed in the following pages. Also discussed is content, the most important part of any report.

At the end of this section you will find a format for the pre-sentence report. The following discussion progresses in accordance with this format. In addition, there is some discussion of other headings which may be used, if appropriate. Along with the discussion of subject matter is some commentary concerning why some material is handled in a certain way, and why some material is either included in, or excluded from, a report. Two headings not included in the format, "Health" and "Religion", are referred to briefly and for obvious reasons. In many cases, other of these headings are omitted. In other words, if you have nothing of importance to say under a heading, leave it out of the report. A short report containing significant material is better than a long one filled with irrelevant matter.

PRIOR RECORD

A defendant may have no prior record, or he may have both a Juvenile Record and an Adult Record. If, after investigation, you find that the defendant has no prior record, make the following statement: "Contact with local, state, and federal agencies reveals that this defendant has no history of prior arrests."

Juvenile Record: If a defendant has lived in San Francisco during his formative years (prior to age 18), get in touch with the Youth Guidance Center, even though the defendant denies having a juvenile record. When the Center answers your call, ask for the Record Room, giving the defendant's name and birth date. If you are advised that they have a record of the defendant, ask that it be transferred to the Juvenile Probation Officer who is authorized to give you information. Call him on the following day, at which time he will talk to you about the defendant's record, or will send you copies of the Juvenile Court Reports, with the understanding that they are to be returned to him as soon as you are through with them.

There may be psychological reports which would be of great assistance in evaluating a defendant's behavior. Unfortunately, the Juvenile Probation Officer is not permitted to give you the content of these reports. In order to learn something about them, you must call the Mental Health Information Office of the San Francisco Health Department at 101 Grove Street.

The defendant may admit to having a juvenile record in another county or state. If he does so admit, or you have reason to believe that he has such a record elsewhere, immediately write to,

or call, the appropriate authority, requesting such information as they may be able to give you.

The defendant's juvenile record is never shown on the face sheet, but is given in the body of the report in chronological order, including the date, the nature of the offense, and the disposition of the charge, including commitment to the Log Cabin Ranch School, and/or the California Youth Authority. You may also wish to include under this heading some comment about his family situation and any physical or psychological problems he may have had when still a juvenile.

An out-of-county or out-of-state juvenile record is set forth in the report in the same manner as would a local record. If official verification of such a record is late in being received, do not hold up writing of the report for that reason; instead, summarize such information as you have been able to obtain from the defendant or other source.

Adult Record: A Probation Officer must always investigate to see if a defendant has a prior adult record, even though he denies having one. Such information is obtained from three sources: the San Francisco Police Department; the State of California Bureau of Criminal Investigation and Identification; and the Federal Bureau of Identification. These records are to be found in the defendant's jacket, which is kept in the Bureau of Identification on the fourth floor of the Hall of Justice. To obtain this, fill out a request form at the B. of I. giving the defendant's name and his San Francisco number. (If you do not have his number, supply the information asked for on the request form.) In his

and 1990s, the most significant changes in the structure of the economy were the shift away from agriculture and the growth of the service sector.

While the agricultural sector has declined in importance, the service sector has grown rapidly, especially in the 1990s. The growth of the service sector has been driven by the growth of the financial and insurance sectors, and by the growth of the tourism and hospitality sector. The growth of the service sector has been driven by the growth of the financial and insurance sectors, and by the growth of the tourism and hospitality sector.

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jacket you will often find all three of the records referred to above. If you find only the San Francisco record, it may be because the others have not yet been received, or because he has no other record. (If there is no State or Federal record, look for two small forms in the jacket which show that he has no record with either the C.I.I. or the F.B.I.) If the report you are writing concerns a misdemeanor offense which is the defendant's first arrest in San Francisco, you may not find either a C.I.I. or an F.B.I. record in the jacket; this is because of the brief period of time between arrest and the finding of guilt in the case of a misdemeanor. In the case of a report for the Superior Court, you will usually find the three records in the District Attorney's file, or in the defendant's jacket.

In recording the defendant's prior adult record in the pre-sentence report, several factors must be kept in mind. Often you will find entries in these records which have nothing to do with criminal behavior: a man has applied for a federal job and needs to be finger-printed; a man is applying for a license to practice a profession, etc. Another group of entries are those relating to action taken subsequent to a defendant's receiving sentence: a defendant is sentenced to a state penitentiary on a given date; some time later he is actually committed to an institution, from which he is paroled a year later. In such a case we have three or four dates which refer to the same offense. In California a person may be released after being taken into custody if it is later felt that a criminal complaint should not be filed. Such action "shall not be deemed an arrest, but a detention only". (See Sec. 849b(1) P.C.) An entry of this kind is never shown in the pre-sentence

report.

Occasionally one will find a long record in which there are numerous entries indicating arrests for "vagrancy" (647 PC), all of which have been dismissed. Or you may be writing a report on a woman with many arrests for alleged prostitution, all of which have been disposed of without a conviction. If there are a great many of such arrests, it is not always necessary to list each one separately in the Prior Record. But if they are not listed separately, it is essential that you refer to them under the heading "Prior Record", and, in the Evaluation, inasmuch as persistent behavior of a specific kind will give the judge some insight into the character of the defendant before him.

From what has been said, it is evident that some prior records are quite complicated. Such a record must be read carefully, so that the defendant will not be charged with more arrests and/or convictions than actually occurred. Because of this not infrequent complexity, it is a cardinal rule of the Department that a typist is never requested to copy a rap sheet, or the parts of it which are significant. (Such work is not part of the typist's job, nor is she competent to separate the wheat from the chaff.) By the same token, a Probation Officer is not to obtain copies of a defendant's rap sheet and attach these to the copies of the report. (A judge does not want to have to peruse a lot of irrelevant material; he wants a reasonably concise statement of a defendant's arrests and convictions.)

Sometimes you will find that a defendant has been arrested one or more times while the offense about which you are writing has been pending before the court. These are noted in the Prior Record

section, but under the sub-heading "Subsequent Offense(s)". It is important that this heading be used, inasmuch as a judge should be well aware, upon reading the report, that the defendant has continued to engage in presumably criminal activity while a charge is pending against him. (It is also important for the Probation Officer to keep this in mind when deciding what recommendation to make, since continued criminal activity tends to militate against a favorable recommendation.)

PRESENT OFFENSE

There are three parts to this section. The first is a brief introductory paragraph in which you give the date of arrest and the charges placed against him at that time, the date he was held to answer in Municipal Court (if you are writing a Superior Court report), the date he pleaded guilty (or was found guilty by the court or a jury), and the date the defendant is to return to court for sentence.

The second section bears the sub heading "Statement of the Offense". The third section is headed "Defendant's Statement".

Statement of the Offense: In the case of a Municipal Court Pre-Sentence Report, information concerning the Present Offense can be obtained from the Police Report, the primary source of information in most cases. When you obtain a report, make sure that it is a report of the offense about which you are writing. If in doubt, check with the defendant for verification. You may also want to talk to the arresting officer or the inspector assigned to the case. If the defendant has been found guilty by a jury, the Assistant District Attorney assigned will usually be a good source of

information concerning evidence given during the trial.

The "Present Offense" should be a clear, concise summary of the information you have obtained about events leading up to the defendant's arrest. Sometimes when several persons have been arrested at the same time, the incident report will refer to "Suspect #1", "Suspect #2", etc. Never use such designations in your summary, since their use often leads to considerable confusion and re-reading; instead, refer to the suspects by their names, which are usually found in the report. Also, never request a stenographer to copy an incident report verbatim; the style and organization of such a report is seldom suited to pre-sentence report composition.

When writing a report for the Superior Court, an additional source of information is the transcript of the Preliminary Hearing, a copy of which is almost always found in the District Attorney's file, a file which is made available to the Probation Officer. The transcript must always be read; it often contains additional and/or different information regarding the offense. Sometimes this information will effect a change in the Probation Officer's view of the defendant and the offense.

The "Statement of the Offense" is an important part of the pre-sentence report in most cases for the reason that the judge often knows nothing of the reasons why the defendant was arrested and charged with a crime. Thus the judge must depend on the pre-sentence report for information concerning the nature of the offense, information which he needs before passing sentence.

When a definite complainant is involved in a case, it is necessary to get in touch with that person (or company) in order to obtain a balanced view of events leading to the arrest of the defendant. This is especially important in cases in which the court may order the defendant to make restitution for property lost or stolen, or for medical costs resulting from the defendant's behavior. The information thus obtained can be referred to under the heading "Statement of the Offense", or under a separated heading labeled "Complainant's Statement", which will follow "Defendant's Statement".

Defendant's Statement: The defendant must always be asked if he cares to make a statement on his own behalf, a statement which will be included in the report. If he answers in the affirmative, request that he put his statement in writing, either on the back of the Form 1A or on a separate piece of paper. If he does submit a written statement, request the stenographer to copy it verbatim, including errors in spelling and punctuation.

A written statement is preferred, since it protects the Probation Officer if the defendant should later change his story. If the defendant will give only an oral statement, make a record of it and later include it in the copy (or tape) you submit to the stenographer. If the defendant declines to make a statement, so inform the court under this sub heading.

SOCIAL HISTORY

Background: In a sense, the term "background" will include all of a person's "social history", but in the present context it

should consist of a brief history of that part of the defendant's experience which is not dealt with under the other headings of this section.

It is appropriate to start the background section by stating when, where, and to whom the defendant was born. Then say something about his parent's situation, their occupations, and the names, and ages of the defendant's siblings, if any. Then go on to account for his places of residence since leaving home (if he did), including such considerable periods of time as he might have spent in custodial facilities of one kind or another.

There is no set rule as to just what you will say under this heading, but avoid more than passing reference to matters which are to be fully discussed under the following headings:

Education: The Probation Officer is to make a reasonable effort to verify a defendant's statements regarding his education and vocational training. For this reason, it is essential that you obtain from him, at the time of the initial interview, definite information concerning when and where he went to school or took training courses, as well as the names of the schools or institutions.

Soon after receiving this information, send out inquiries, either in letter form or by means of a printed form (which are available). Don't wait indefinitely for a response to these inquiries. If you have not received a response after a reasonable time, go ahead with writing the report, stating in it what the defendant has told you about his education and training and indicate inquiries have been

made but no response received to date. If such is the case, advise the court in the report that should the information be received prior to sentence, the court will be informed. Occasionally verification of a defendant's education will not be indicated. This may be true in the case of a middle-aged defendant, or a defendant who has spent a good part of his life in custodial institutions of one kind or another. In such an instance, the Probation Officer must rely on his own discretion regarding the feasibility of securing an academic record.

Military Service: Exclude this sub-heading if the defendant denies ever having had military service, and is obviously of an age which would have exempted him from such service. If a person has had military service, obtain the branch of service, his serial number, the period during which he served (including such overseas service as he might have had), the highest rank he obtained, and the type of discharge he received. If he received something other than an "honorable" discharge, try to find out the reason why he received such a discharge.

If a Probation Officer wants to verify a defendant's statements concerning military service, he should send in inquiry to the appropriate Military Records Center, making sure to include the person's full name, birth date, serial number, and rank at the time of discharge. This inquiry should be mailed as soon as possible, inasmuch as obtaining information from a Military Records Center is a time-consuming operation, and one which is not always successful.

If the defendant is on active service with the military, you should

get in touch with the person in charge of military liaison in the Hall of Justice. Another source of information is the Armed Forces Police Station on Clay Street. Through such sources you may find that the defendant has been booked "En Route AFP" and has been classed as AWOL or as a deserter. If you find this to be the case, get in touch with the Armed Forces Police regarding the feelings of the Military toward the defendant, and the name of his Commanding Officer, to whom you may wish to write. In this way you may obtain information which will influence your own thinking about the defendant.

Marital History: If the defendant is quite young and says he has never been married, nor does he have any children as the result of an extra-marital relationship, it is appropriate to omit this heading from the report.

If a person has been married, find out when and where he was married, to whom (including the maiden name of a wife), the names and birth dates of the children, and the present status of the marriage, i.e., divorced, annulled, separated, intact, etc. If the marriage is not currently in force, try to find out why it failed. This is especially important if the defendant has been married several times, even though one, or more, of these "marriages" had not been legally sanctioned. It is also important to talk with the defendant's spouse (or former spouse or spouses) when possible. You can often obtain significant information about a person through such conversations. If a defendant's marriage is not in force, and there are children of that union, try to find out where the children are living, and who is supporting them. (If the children are

supported through a grant from the Department of Social Services, try to talk to the Social Worker who has the case.)

A defendant's marital history is often a good source of information regarding his motivational and behavioral patterns. This is especially true in the case of a defendant who has been married several times. Sometimes, such a defendant, when talking about why the marriages failed, will place the entire burden on his spouses. Such "explanation" is suspect, since it is probable that the defendant is given to projecting his own deficiencies onto other persons in his immediate environment. This trait should be kept in mind when you are writing your evaluation of a defendant.

Employment History: There is probably nothing which will tell you more about a person than his work record. A reasonably long record of steady employment is usually an indication of stability, an important factor to consider in your evaluation. This is not to say that a person with a good employment record will never get into trouble, but if you analyze the personal history of a large number of probationers, you will probably find a high correlation between long records of arrests and short records of steady employment. Occasionally you may find a defendant will have a good work record as well as a fairly long record of assaultive behavior, a combination which suggests that he may go on periodic drunken binges, during which he becomes violent. There may be other reasons for this phenomenon, but it is not very often that you will be faced with this apparent contradiction; people with long, stable work records are seldom defendants in criminal court cases.

Sometimes you will find that a defendant has almost no employment history to record. He may be so young that he has never engaged in gainful employment on a full-time basis. He may be an older person who has been a drifter since leaving home, never having stayed in one place long enough to work at anything but a casual job of short duration. Or he may be a person who has spent most of his employable years incarcerated in one kind of an institution or another, with relatively brief periods of freedom, during which he "hustled" a living until such time as he was again arrested and sentenced to more time in custody. If a defendant says he is not working, but you have reason to believe that he is, submit the punch card, Form DE 4773 (HRD), making sure that you have the defendant's Social Security number on the card, as well as this Department's code number and the Probation Officer's case load number.

When interviewing a defendant, try to obtain definite information about his employment history: for whom he worked; during what period of time; the kind of work performed; and the reason for termination of his employment. In some cases, the defendant will be either unable or unwilling to give you definite information concerning his periods of employment. In such a case, record the information you obtain, pointing out that the defendant was unable to recall his work history, or was unwilling to give you full information.

In recording a person's work record, start with his current, or most recent, job. Then list previous jobs in reverse chronological order. All periods of employment should be verified whenever possible. With the exception of a defendant's current employment,

request verification by means of a Form AP13 which should be sent out to a former employer as soon as possible. In the case of current employment, avoid getting in touch with the employer unless the defendant states that his employer is aware of his offense, and is willing to respond to your inquiry. Verification of current employment can be obtained from salary check stubs or a 1040 Income Tax Form.

In evaluating a defendant's work record, several factors should be kept in mind: (1) a young person is not expected to have much of a work record; an older person with almost no work record raises several questions; (2) the defendant's education and training; what does the defendant have to sell on the labor market?; (3) the extent of the defendant's past criminal record; how many employers will hire a person with a past record?; (4) ill health or disability; is the defendant physically or mentally unable to work?; (5) the state of the labor market; are there many opportunities for a person with little education or training and no saleable skills?; (6) early family situation; was the defendant reared in an environment in which there was no motivation to acquire vocational skills?; (7) the racial factor; are there as many employment opportunities for members of minority groups as there are for members of the dominant group?

Health: Under this heading write about any health problem which the defendant has: physical disability, mental disability, or drug addiction. If he has none of these problems, this heading is to be omitted from the report. If he has a health problem, and is receiving treatment for it, obtain his signature on two or three copies of Form 3414 (Medical Consent), so that you can later verify

his statements.

If you have reason to believe that a defendant is addicted to the use of narcotics, try to get him to talk about his drug usage. If you become convinced that he is either addicted, or is in danger of becoming addicted, you should give.. consideration to recommending that a petition be filed pursuant to the provisions of Section 3050, Welfare and Institutions Code (in Municipal Court), or Section 3051, Welfare and Institutions Code (in Superior Court). If a person says that he is receiving Methadone treatment, you should verify the accuracy of this statement.

If a person is unable to work because of a physical or psychological disability, either permanent or temporary, try to obtain a statement (including a prognosis) from the defendant's doctor or therapist, or from his Social Worker, if he is receiving Aid to the Totally Disabled through the Department of Social Services. Upon receipt of such a statement, you must use discretion regarding how you will transmit this information to the court. If you receive specific permission to include the statement in your report, you may cite it verbatim. If you do not receive such permission, you may only summarize the statement in your own words and without giving the name of the person who wrote it.

Religion: With rare exception, this heading should be omitted from a report, and for the simple reason that a person's religious beliefs are nobody's business but his own. Only on the off chance that a defendant's religious beliefs are in some way directly related to the offense is it appropriate to have a section headed "Religion". (If a priest or minister submits a statement in favor

of a defendant, refer to it under the heading "Interested Parties".

Interested Parties: Under this heading is placed the District Attorney's recommendation, when one is available. If the report is for Superior Court, the District Attorney's recommendation is almost always written on the face of the District Attorney's file; if the report is for Municipal Court, the District Attorney may, or may not, make a recommendation. Always send a Form AP 23 , to the arresting officer or the inspector assigned to the case. This is done to ascertain whether or not there are outstanding charges or warrants from some other jurisdiction.

Sometimes the Probation Officer will receive letters from persons who are interested, one way or another, in the defendant. All of these letters should be alluded to in this section of the report, even though some of them (usually from family members or close friends) may not be of great value in reaching an objective conclusion as to your recommendation. On the other hand, you may receive a letter which contains really significant material regarding the defendant, such as the one previously referred to under the "Employment" heading. Whatever the contents of the letter, you will probably want to incorporate some of it in your report. But before you do, you must carefully consider the following restrictions on the use of letters.

Unless you have the writer's written permission to use his letter, you are limited to summarizing the contents of the letter in your own words. Do not quote the writer verbatim, and do not reveal his name or address. In view of these restrictions, it is advisable to point them out to a defendant, and suggest that he ask

his references to give written permission in any letter one of them might write regarding a defendant.

The reason for the prohibitions noted above is that a pre-sentence report becomes a public document as soon as it is made a part of the official Court Record. Some people do not like to have their names publicly linked with anyone who has committed a crime.

More often than not, letters or statements received by the Probation Officer will be referred to under the heading "Interested Parties". But there is no reason why a letter or statement cannot be referred to under one of the other headings. A letter from a defendant's current employer is appropriately placed under the heading "Employment History", as has already been indicated. By the same token, a letter from a doctor can be appropriately referred to under "Health"; a letter from a spouse under "Marital History", etc.

EVALUATION

The "Evaluation" is the most important part of a Pre-Sentence Report, inasmuch as in this section you commit to writing your thoughts and predictions concerning the defendant. Keep in mind that an evaluation is NOT a recapitulation of the factual material which you have given in the body of the report. (Never head this section "Summary and Evaluation".) Instead, it is several paragraphs (more or less) in which you justify the recommendation which you are going to make.

A good evaluation is your impression of the defendant, an impression obtained after you have talked with him and considered the environmental factors which have helped to develop his behavior

patterns and life style. In writing the evaluation, you will almost always have occasion to allude to certain factual material which lends support to your appraisal. But avoid including factual material which is irrelevant to the purpose at hand.

It has been noted that in many instances an evaluation will have nothing to say about the impression the Probation Officer received of the defendant, as a person. At the time of the pre-sentence interview, did you find the defendant to be intelligent, seemingly candid, cooperative, apparently motivated to change his ways? Or was he uncooperative, sullen, hostile, apparently unwilling to try to change? Or what other behavioral traits have you noticed that would give you a clue as to defendant's potential for either success or failure as a probationer? Reference to these characteristics is an important part of an evaluation. Some officers might refrain from writing about these for fear that such "subjective" material has no place in a pre-sentence report. Here it is noted that the contents of a Probation Officer's report is not bound by the rules of evidence as applied in a court setting. Because of this, "subjective" material may be included in a report, and should be included if it will help the judge to gain insight into the behavior of the defendant before him.

The purpose of an evaluation is to describe the relationship between a defendant's behavior and his life experience. More specifically, it is a description of the relationship between the act which brought the defendant before the court and the latter's needs, attitudes, background and life style. An example of this is the defendant who is before the Court on a charge of burglary

(459 PC) or possession of stolen property (496 PC). Upon investigation of the case, you find that the defendant has been committing these offenses in order to support a narcotics addiction.

On the other hand, you may find that a defendant before the court on a burglary charge has an equally long record of arrests for property offenses. Yet there is nothing to indicate that this defendant has ever used drugs. When we consider these two ostensibly similar cases, we see that the motivational patterns are quite different: one person steals in order to satisfy a craving which he is unable to control; the other one commits similar offenses presumably because he finds illegal activity a more satisfying occupation than working eight hours a day at legitimate employment.

The examples given above refer to causation, something which should be considered whenever you are writing an evaluation. What caused the defendant to do what he did? There is often no easy answer to this question, but some effort should be made to find a tentative answer in the material which you have already given in the report, as-well-as by use of insight and intuition. Your conclusion as to cause does not have to be based on nothing but hard facts. As previously noted, the contents of a pre-sentence report is not restricted by the rules of evidence. But avoid expressing an opinion as though it were a fact. This applies especially to statements concerning "cause", which is usually a combination of a number of factors. So your evaluation will include an intelligent analysis of the "probable" causes of the defendant's illegal behavior.

In summary, an evaluation is the Probation Officer's judgement

as to the defendant's suitability as a candidate for probation. Don't base your judgement on a single factor, such as the nature of the offense, the defendant's prior record, or even such hostility as the defendant might have displayed at the time of the pre-sentence interview. Any one of these could be misleading as to the suitability of the defendant for probation: it is quite possible that a person with a fairly long record has never been granted probation; and a hostile attitude is sometimes displayed because of the mistaken belief that a probation officer is only a policeman in disguise.

A good evaluation rests on a careful appraisal of the defendant's behavior as it relates to his life experience, which experience includes his social background, his present situation, as well as his criminal record, if he has one. Almost by definition an evaluation is a value judgement, something which you may have been taught never to make. But a pre-sentence report usually contains a value judgement; a recommendation is essentially such a judgement--the defendant is (or isn't) a good risk for probation. Keep in mind also the objective of the department, i.e., (1) the protection of the community and (2) the rehabilitation of the defendant.

RECOMMENDATION

A "Recommendation" should follow logically from the "Evaluation", which precedes it, and should be fully supported by what has been said in the evaluation and other parts of the report. Sometimes a recommendation may appear to be in conflict with the evaluation, but in a well written report there should never be any serious doubt as to what is being recommended and why.

The recommendation to be made is left to the discretion of the Probation Officer who is writing the report. This is true, even though the recommendation is quite different from that made by the District Attorney, or the sentence agreed upon by the two lawyers and the judge (a negotiated plea). It is perhaps easier to go along with the District Attorney's recommendation, since it takes fewer words to justify concurrence than it does to convince the judge that your recommendation, though different, is the better one. But if you have good reason to believe that a "different" recommendation is indicated, don't hesitate to make it. But always remember that you must have already justified the recommendation that you are about to make. Justifying a recommendation is not always easy, so avoid making recommendations on the basis of some vague, intuitive impulse. Always be prepared, if challenged, to give reasons which are at least subject to objective evaluation.

A Probation Officer is not restricted to recommending either that probation be granted, or that it be denied. When recommending probation, it is appropriate to specify the period of probation, as well as conditions as seem reasonable, all things considered. Maybe the defendant should serve some time in the County Jail as a condition of probation. Or maybe payment of a fine, or probation costs, is indicated. Sometimes a defendant is in need of psychotherapy or other treatment. Any of the conditions noted above, and any others which the Probation Officer deems reasonable must be specifically stated in the recommendation.

There are a number of other recommendations which entail the co-operation of other agencies, or the removal of the defendant to

an institution of one kind of another. Occasionally a Probation Officer will want to recommend that a defendant be examined by a psychiatrist. In making such a recommendation, it is not necessary to cite a code section, but it is essential that you describe the behavior which has caused you to believe that the defendant may be either emotionally or mentally disturbed. The psychiatric interview is done either by a court appointed psychiatrist, or through the Criminal Justice Unit of the Northeast Mental Health Services, 798 Brannan Street. Such an interview can be obtained when the defendant is either in custody or out on bail or his own recognizance.

Section 1203.03 of the Penal Code is something to keep in mind when you are writing a felony pre-sentence report and have some doubt as to whether a defendant should be committed to the Adult Authority or should be granted probation with some time in the County Jail as a condition thereof. This section provides that a defendant can be committed to the Adult Authority (Medical Facility at Vacaville) for a period not to exceed 90 days. During his stay there he will be observed by the staff, and at the end of the commitment period he will be returned to the Court which committed him, together with a comprehensive evaluation and a recommendation concerning final disposition of the case. If you think a defendant should be committed to the Medical Facility for an evaluation, recommend commitment "pursuant to the provisions of Section 1203.03 P.C."

If you have reason to believe that a defendant is addicted to the use of hard drugs (or is in danger of becoming addicted), and you

feel that he should be sent to the California Rehabilitation Center for treatment, recommend that the court take action to that end. If the case is in Municipal Court, you recommend that proceedings be stayed and that the case be certified to the Superior Court "pursuant to the provisions of Section 3050 of the Welfare and Institutions Code". If you are writing a report for Superior Court, your recommendation will be that the defendant be examined "pursuant to the provisions of Section 3051 of the Welfare and Institutions Code". Sometimes a referral from Superior Court will indicate that a 3051 W&I Code petition has already been filed with the court. In such a case you will probably recommend that, if he is found to be addicted, the defendant be sent to CRC for treatment; if he is found not to be addicted, your recommendation will be either for or against probation, just as you would if a petition had never been filed.

It can be useful to know that a defendant can be committed to the California Youth Authority, provided he qualifies for that agency's services. He must have been less than 21 years old at the time of his arrest. The offense of which he is guilty must provide for a maximum penalty in excess of 90 days. The commitment must not be as a condition of probation. In other words, there is no such things as a conditional commitment to the California Youth Authority. If you are going to recommend Youth Authority commitment, you must first recommend that probation be denied. If a defendant is committed to the Youth Authority, the committing court (Municipal or Superior) loses all jurisdiction.

Great discretion should be exercised in recommending commit-

ment to the California Youth Authority. Several criteria should be kept in mind. Does the defendant have a considerable prior record, both as a juvenile and as an "adult"? Has the defendant committed a serious felony, one which would probably result in commitment to the Adult Authority if the defendant were a little older? Is the defendant the kind of person who would probably benefit from the treatment and training programs available at Youth Authority facilities? If none of these criteria apply to the defendant about whom you are writing, CYA commitment is not indicated. If you are recommending such a commitment, request the stenographer to make two extra copies of the report, since they have to be forwarded to the Youth Authority.

Reflecting a somewhat similar philosophy are the provisions found in Section 1202(b) of the Penal Code. This brief section reads as follows: "In any criminal proceeding in which the defendant is convicted of a felony . . . and is committed to the custody of the Director of Corrections, if the defendant was, at the time of commission of the offense . . . under the age of 23 years, the court may, notwithstanding any other provision of the law . . . specify that the minimum term of imprisonment . . . shall be six months." After serving six months, the inmate may be considered for parole. When he is paroled, he is placed under the supervision of a State Parole Agent.

This section applies only to persons who are guilty of a felony. If you are doing a Superior Court report and feel that the defendant should not be granted probation, yet should not be sent to the State Penitentiary, for the usual term, you can recommend commitment in accordance with the provisions of Section 1202(b) PC,

of South African officials and economists identified and the well-known and popular name of "poor man's gold" was coined. The name stuck and the name "poor man's gold" is now firmly established in the South African lexicon. It is a name that has come to denote a number of things, including the mineral itself, the mineral industry, the people who work in the industry, the town where the mineral is found, the region where the mineral is found, and the country where the mineral is found.

Presently about one million 10- and one thousand-tonne per annum open-cast mines are in operation throughout the country. A further one million tonnes of coal are produced annually. This is the coal that is used in the manufacture of coke, which is the coal that is used in the manufacture of iron and steel. The coal that is used in the manufacture of coke is the coal that is used in the manufacture of iron and steel. The coal that is used in the manufacture of iron and steel is the coal that is used in the manufacture of iron and steel.

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provided the defendant was not yet 23 years old when he committed the offense. Keep this section in mind when writing about a defendant who, in your opinion, should be committed to the Youth Authority, but can't be because of his age.

Sections '6300 et seq of the Welfare and Institutions Code deal with the subjects of sexual psychopathy and the mentally disordered sex offender (MDSO). If you are writing a report on a person who has committed a sexual offense, the nature of which (together with his prior record or other factors) causes you to believe that he may be a MDSO, you can recommend that he be examined pursuant to the provisions of Sec 6300 et seq W & I Code. If you are writing for the Municipal Court, you will recommend that the matter be certified to the Superior Court pursuant to the provisions of Sec. 6302 W & I Code. If you are writing for the Superior Court, you will recommend that the defendant be examined pursuant to the provisions of Sec. 6302 W & I Code. In either case, court action is stayed pending further developments. If a person is found to be a mentally disordered sex offender, he is committed to an institution for treatment. Inasmuch as the commitment is for an indefinite period of time, the defendant is kept at the institution until he is cured, or until it is decided that further treatment would be of no benefit. In either case, the defendant is returned to court of original jurisdiction for final disposition.

Be mindful of the mandatory provision of Sec. 6300 et seq of the W & I Code, particularly if the violation involves a child under the age of 14 years. In view of this, and other legal provisions, you are urged to carefully read Sec. 6300, et seq of the Welfare and Institutions Code.

CONCLUSION

Lawrence M. Stump, California Youth Authority Parole Agent, states that a pre-sentence report, "must be comprehensive, diagnostic and complete, accurate and concise". One may wonder how a report can be both "comprehensive" and "concise". Actually, there is no conflict in the use of these two terms. What is meant is that a report should consider all significant factors without excess verbiage. A reference to a defendant's school record, for example, give a general statement concerning his grades, rather than a detailed record of his grade in every subject. As for military service, it is better to state why the defendant received a Bad Conduct Discharge, than it is to describe in minute detail his behavior at every duty station to which he was assigned.

In addition to what has been noted above, there are a number of "do's" and "don'ts" which should always be kept in mind when dictating or writing a report:

Pre-Sentence Reports have top priority; start your investigation as soon as you receive the assignment so that it will be ready for court two or three days before it is due. (Section 1203(d) PC requires it to be submitted two days prior to sentencing or five days prior should the defendant make such a demand.

Never delay finishing a report because you have not received a reply to some inquiry you have mailed, unless it is information which has been specifically requested by the Court, such as a psychiatrist's evaluation.

Always spell out your recommendation, both on the face sheet and in the body of the report.

Always make copies of any document to be attached, so that every copy of the report will be complete.

Never show a defendant's juvenile record on the face sheet; show it in chronological order under "Prior Record".

Always show custody status and days in custody on the face sheet.
(Forms are available to send to the City Prison and the County Jail.)

Never ask a stenographer to copy a rap sheet, and never attach copies of a rap sheet to the report. A defendant's prior record should be either dictated or written out so that it becomes a part of the typed report.

Never ask a stenographer to copy a police report; it must always be summarized in your own words.

If you dictate a report, enunciate clearly, including all punctuation. If you submit written copy, make sure that your writing is legible. Don't crowd a lot of writing into a space too small for it; use another piece of paper, if necessary.

When submitting copy, either dictated or written, include all court numbers, code numbers, dates, etc.; don't ask a stenographer to search through a file for such information.

Finally: Never forget that a Probation Officer functions within a legal framework. The Courts have laid down certain rules regarding form and procedure. The Probation Officer is expected to adhere to these rules, even though he feels that he has better idea as to how things should be done.

PRIOR RECORD

Juvenile:

Adult:

PRESENT OFFENSE

Statement of Offense:

Defendant's Statement:

SOCIAL FACTORS

Background:

Education:

Employment:

Marital History:

Military Service:

Interested Parties:

EVALUATION

RECOMMENDATION

M O T I O N S

M O T I O N S

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MOTIONS

An important part of a Probation Officer's work is the preparation of motions to be submitted to the Court for the purpose of requesting the Court to take certain action in regards to a defendant.

There are quite a number of kinds of motions, inasmuch as there are a variety of situations which can be resolved only through court action. Some of these motions are submitted to the Court on printed forms which have been designed for a specific purpose; others are submitted on a Form AP08 which has been designed to facilitate preparation of a variety of motions which do not have special forms.

The essential information referred to above consists of names, dates, numbers, and certain other information. The name of the defendant must be the name he used in court when probation was first granted, even though that name is not his true name. If he used an assumed name, it is appropriate to give also his true name. If he has used the name "John Jones", that will be shown first; underneath or to one side enter his true name, e.g.: John Jones (true name: Henry Smith).

Of great importance is the court number, a number which is shown in the left column of the court calendar. (e.g.: H-47651, G-63943, or whatever.) It is important to have this number right, since it is used by the Court to identify a defendant. It is especially important to be careful in cases in which a defendant on probation on two or more charges. A wrong number on a motion will probably result in the Court returning it to the Probation Officer without taking action.

On all motions show the exact date on which probation was granted, and the dates on which any subsequent action was taken by the Court. Also show on all motions the Court's sentence at the time probation was originally granted, as well as any subsequent modifications of the original sentence, as indicated in the following example:

10-20-71: 6 mos. CJ(SS): one year probation; fine \$100.00

10-7-72: Prob. extended one year

6-6-73: Probation modified; 10 days CJ

By giving the dates and actions as noted above, you assist the Court by showing in concise form a "history" of a certain grant of probation. A judge may have had ample time to read a Probation Officer's motion, but when he is on the bench and a matter is called, he can see at a glance what action has already been taken in the case then before him.

In all motions be sure to show the correct code section which the defendant violated. This information consists of the number of the section and the letter designation of the code. There are a number of legal codes in California, each one with hundreds of sections, so it is important that these designations be correct. Be especially careful in cases in which two or more numbers and/or codes are involved in one grant of probation, or in cases in which a defendant is serving two or more separate grants of probation. Following is a hypothetical example of a case in which a defendant was given a single grant of probation for three offenses involving three different codes:

10351 VC (Vehicle Code); 143 PC (Penal Code); 4143(b) B&P (Business & Professional Code).

Keep in mind that a section number without a code designation

will probably be meaningless to the court staff.

Following is a discussion of the various kinds of motions which a probation officer might enter with the Court. At the beginning of each section, the title of the motion is underlined and in the form which will be used to head your motion.

Motion to Revoke Probation: From time to time a Probation Officer will enter such a motion, and for one of several reasons, all of which have to do with the defendant's violation of the conditions of probation, either as ordered by the Court, or as stated in the probation agreement, a form which every probationer must sign. There are three principal categories of reasons for entering a Motion to Revoke Probation:

1. A new offense

The Probation Officer will learn of a new offense allegedly committed by the probationer through the Police Department (every morning the Probation Department receives a list of probationers who have been booked on a new charge); by the District Attorney (who has filed a Motion to Revoke); or through a law enforcement official of another jurisdiction (city, county, state, or federal). Before requesting the court to revoke probation, the Probation Officer should interview the defendant (if he is available) and should obtain a copy of the arrest report (if he was arrested in San Francisco). If the defendant was arrested in another jurisdiction, an appropriate official in that jurisdiction should be

contacted regarding the nature of the alleged offense.

The Motion to Revoke is entered on the Form AP-08 which should contain a summary of the new offense, and the defendant's record with the Probation Department since being granted probation. The recommendation will usually be that "probation be revoked and sentence imposed". It may be that you feel that something less than outright revocation is indicated, in which case it is appropriate to recommend that the defendant be "sentenced to a period of time in the County Jail as a condition of further probation". Or, if you prefer, you may make two recommendations, leaving it to the judge to take such action as he deems appropriate.

Whenever a Probation Officer enters a Motion to Revoke on grounds other than "desertion", he must send the probationer a "Show Cause" notice (Form AP12 Notice to Appear) to his address of record. This form is to be prepared in triplicate, the original going to the probationer, a copy attached to the face of the motion, and a copy for the case folder.

With the change in the Penal Code that now allows the District Attorney to make motions to revoke probation, many of the reports submitted by the probation officer will be at the specific

request of the Court. The latter will frequently request that a "supplemental report" be filed in the case. Despite the use of the phrase "supplemental report" by the judge, it is suggested that the report be labeled "motion to revoke probation". However, in the body of the report it should be made clear that the motion to revoke was instituted by the District Attorney. In such a report, details of the new arrest should be noted, as well as the probationer's conduct while under supervision since probation was granted, both positive and negative aspects being referred to. The report should then conclude with the reasons why probation should, or should not, be revoked. As has been noted above, the Probation Officer may take a middle stand, recommending that the probationer be required to serve some time in the County Jail as a condition of continued probation. Or he may recommend that the District Attorney's Motion to Revoke be continued until the probationer is convicted of the new offense, bearing in mind, however, that a probationer can legally have his probation revoked solely on the basis of a new arrest.

Although you may feel that probation should not be revoked, from a practical standpoint a defendant may be more leniently treated by having his probation revoked, provided he faces only a County Jail

sentence and the District Attorney has agreed to dismiss the new charge (or charges) if probation is revoked. If you talk with the District Attorney and find that this is the case, it is advisable to concur in the District Attorney's Motion to Revoke.

2. Desertion

One of the more common reasons for entering a Motion to Revoke Probation is that the probationer has "deserted", i.e. that his whereabouts has become unknown to the Probation Officer.

Such a motion is entered on a Form AP53 a form which is used only for this purpose. It is a printed form which requires a minimum of additional information. But before employing this form you must have reasonable proof that the defendant has really deserted. Acceptable proof of this is a letter which has been mailed to the defendant's address of record and which has been returned by the Post Office marked "Unknown", "Moved", "No such number", etc. Sometimes a home visit or contact with a landlord will offer proof that the defendant is no longer living at his address of record. Or a Parole Agent or Probation Officer (of another jurisdiction) will certify that the defendant has deserted.

Before submitting a "desertion motion", call City

Prison and the County Jail to see if he is in custody. Also check with the Bureau of Identification to see if he may be in custody in some other jurisdiction.

Never submit a Motion to Revoke on the Form AP53 if you don't have acceptable proof, as indicated above, that the defendant has really "deserted".

In the absence of proof, submit a motion on the Form AP-08 and send out a Show Cause notice, even though you are "sure" that the defendant is no longer at his address of record.

3. A Technical Violation

Such a violation is the probationer's failure to comply with a condition of probation as ordered by the court or set forth in the probation agreement. If you feel that probation should be revoked, use Form AP-08 and state your reasons in accurate, clear, and concise language.

Such a motion should not be hastily decided upon, since a probationer may not have been able to comply because of illness or unemployment. If in doubt about the propriety of such a motion, you are advised to discuss the matter with the judge, who will probably indicate either a willingness or an unwillingness to revoke probation. It should be emphasized, however, that discussing the matter with the judge should occur only when there is

serious doubt on your part as to the propriety of entering a motion to revoke.

If you finally decide to request revocation, send a "show cause" notice to the defendant well ahead of the date the motion is to be heard. This is advisable because some probationers will ignore ordinary reminder notices, but will immediately respond to a notice to appear in court to show cause why his probation should not be revoked. By sending him a notice well ahead of time, you give him an opportunity to come in with an explanation, or money in a case in which action is threatened because of his failure to make payments on a fine, costs, or restitution. Thus by sending a notice well in advance of the court date, a Probation Officer can sometime eliminate the time and effort in preparing a motion.

Motion to Modify:

This is a short title for "Motion to Modify Conditions of Probation". A Motion to Modify (which is submitted on a Form AP08 is entered for a variety of reasons, either positive or negative. It can be used to terminate jail time in a case in which the defendant is serving a period of time in the County Jail, as a condition of probation. It can be used to reduce or eliminate payment of a fine or probation costs in financial hardship cases. It can be used in an effort to eliminate or reduce any condition made by the court at the time probation was granted.

One of the more common reasons for entering a Motion to Modify is of a negative nature and is entered in lieu of a Motion to Revoke Probation. In a given case you may feel that a Motion to Revoke is not justified (especially if it's a felony case), but you also feel that something must be done to remind the defendant forcibly that he is to conform to the court's original order and the Probation Officer's instructions. One effective way of getting across your message is to request the court to order the defendant to serve a period of confinement as a condition of remaining on probation. If you are going to submit such a Motion to Modify, be sure to send to the defendant a notice to appear in court on the day the motion is to be heard. For this purpose, the Form AP12 (Notice to Appear) can be used; simply strike out the word "revoked" and substitute the word "modified".

Motion to Extend Probation:

A Motion to Extend Probation is made for one of two reasons:

- (1) the Probation Officer feels that the defendant needs to be continued under the jurisdiction of the Court because he is not yet ready to function without the Probation Officer's supervision;
- (2) the probationer needs more time to complete payment of a fine, restitution, etc.

This latter is the more common reason for entering a Motion to Extend Probation, which is submitted to the Court on a special printed form (Form AP-09). Before preparing such a motion, be reasonably sure that an extension of the period of probation is indicated, and is preferable to a Motion to Revoke Probation.

There are a number of factors to keep in mind when contemplating entering a Motion to Extend Probation. How long has the defendant already been on probation? How much money was he supposed to pay? How much has he paid? Why hasn't he completed payment? What makes you think he will complete payment if his period of probation is extended?

The all important factor is the degree to which the defendant is motivated to pay. A man who has been on probation for two years, during which time he has been steadily employed, yet who has not paid anything, will probably never pay unless he is forced to do so. On the other hand, a probationer who has worked only part time because of illness, yet has paid a substantial part of his obligation, is probably highly motivated to complete payment. Thus it behooves a Probation Officer to evaluate each case on its own merits. A probationer who has made many promises to pay, but has never actually paid anything is probably not entitled to an extension. But a probationer who has eeked out a few payments from a marginal income is probably willing to complete payment if he has more time.

When submitting copy to the typing pool, be sure that all the information asked for on the Form AP-09 is included. On the second line of the form appears the word 'Court'. On this line should be typed the department number of the Municipal or Superior Court and also the court action number. Two lines below this, after "Terms of Probation", the complete court order should be entered.

When preparing such a motion, clearly state the amount of additional time you are requesting, as well as the termination date of that period, e.g. "six months, or until February 23, 1974". Below this entry is space for your reasons for asking for a continuance and your statement regarding how much, if anything, the defendant has paid, and the amount of the balance due. This information must be in all motions to extend which involve money payments.

Always send the defendant a Notice to Appear well ahead of time. If, in response to this notice, you receive word that the defendant will not appear (because of illness, a critical job situation, etc.), inform the judge before the day of the hearing so that he will know why the defendant does not respond when his name is called. There are, of course, differences in judicial attitudes. But more often than not, a judge will grant an extension in the absence of a defendant if he feels that the defendant's reason for not appearing is a valid one. This is why it is important for the Probation Officer to check the validity of the defendant's reason for non-appearance before he discusses the matter with the judge.

Keep in mind that there are other ways of handling a case in which there is a large unpaid balance. If you are convinced that a defendant is making no effort to discharge his financial obligation, a Motion to Revoke Probation is probably indicated.

On the other hand, if you feel that a defendant will never be able to pay, because of inability to work, or because the obligation has been otherwise taken care of, a Motion to Modify may be in order. (Please refer to the following.)

Motion to Remit a Fine or Costs:

It is possible to eliminate payment of a fine or costs as a condition of probation by requesting the Court to remit payment. But such a motion is entered only when you become convinced that the defendant will never be able to pay because of circumstances beyond his control: he has become totally disable and unable to engage in gainful employment; he has other pressing financial obligations which will take every spare dollar he will be able to earn in the foreseeable future; he is a marginal worker and earns barely enough to support his wife and four children, etc. When entering a Motion to Remit, be sure that it contains a clear explanation of your reasons for doing so.

If you feel that a defendant is unable to make restitution as ordered by the Court, and for the same reasons as noted above, (or because the obligation has been taken care of through insurance payments, or otherwise), it is appropriate to enter a Motion to Modify. When doing so, be sure to include the information which the judge will need in order to approve the motion. These motions are submitted on the Form AP-08.

Motion to Terminate Pursuant to Sec. 1203.3 F.G.:

This section provides (among other things) for early termination of a period of probation if the Court feels there is good cause to do so. "Good cause" is admittedly vague, but the following general criteria must apply at the time the Motion to Dismiss is entered with the Court: the defendant should have served at least half of the period of probation originally ordered by the Court; the defendant should have completed any money payments ordered by the Court; the defendant must have suffered no arrests or convictions during the period of probation; the defendant must have complied with the Probation Officer's instructions during the period of probation.

Sometimes it is appropriate to enter a Motion to Terminate even though the defendant has not strictly complied with the criteria noted above. Maybe it has been verified that a defendant is acceptable for enlistment into the Armed Services, but will not be accepted as long as he is on probation. It may be that probation status is the only things standing between a defendant and a good job. Or maybe a defendant has a valid reason to move to a foreign country, where courtesy supervision is unavailable. There may be other reasons for entering a Motion to Terminate, but keep in mind that the Court will not terminate early unless it is convinced that there is a valid reason for doing so. Thus it is incumbent upon the Probation Officer to submit information which will convince the judge that early termination should be granted.

Finally, no Motion to Terminate is to be submitted to the Court without a Form AP18 (Request for Early termination), which has been signed by the probationer. (A Motion to Terminate Early is submitted on the Form AP18.)

Motion to Modify to Court Probation:

Sometimes a Probation Officer will receive a request to enter a Motion to Terminate Probation from a probationer whose record while on probation does not justify such action. But the Probation Officer may feel that the defendant no longer needs active supervision, although he should be retained under the jurisdiction of the Court. In such a marginal case, and if no money payments are involved, modification to probation to the Court may be a compromise which the defendant can accept.

It is also permissible to enter such a motion without prior reference to the probationer. But if such action is taken, the probationer must be notified in writing that he is no longer on formal probation to the Department. In any case, the same criteria apply: no money payments are outstanding; the probationer no longer needs to be actively supervised. A motion of this kind is submitted on the Form AP-08, on which you have stated why such action is being taken.

Motion to Dismiss Pursuant to Sec. 1203.4 P.C.:

The California Penal Code provides in this section that a defendant who has fulfilled all the conditions of probation shall have the right, upon termination of the period of probation,

to have the charge dismissed. (You are advised to read the full text of this section in the Penal Code, inasmuch as it sets forth certain conditions which must be met, as well as certain exceptions relating to the Vehicle Code.)

Not only does a probationer have a right to have a charge dismissed under certain conditions, he must also be informed in writing of this right at the time he signs the probation agreement form (Instruction Sheet Form AP 26). This right is printed near the bottom of the Form F-3405, just referred to.

If a defendant asks to have a charge against him dismissed, have him complete and sign a Form AP 18 (Request to Dismiss Record of Conviction). After he has signed this, check with the Bureau of Identification to see if, in fact, there is no charge pending against him. If the defendant appears to be eligible, submit your Motion to Dismiss on a Form AP28. This is a form used only for this purpose and is one requiring a minimum of additional information.

Motion to Review Probation:

When a Probation Officer submits a Motion to Review it is usually for the purpose of clarifying some issue which has developed since the time the defendant was last in Court. A common situation is one in which there is disagreement between the defendant and the complainant regarding the amount of restitution ordered by the Court, or determined by the Probation Officer. Or it may

be because the defendant's wife has alleged that her husband is physically mistreating her, an allegation stoutly denied by the probationer. Other situations can arise in which the Probation Officer becomes the "man in the middle", for which he feels that the matter should be referred back to Court for a hearing.

Whenever you decide to enter a Motion to Review, be sure to send the defendant written notice as to the time and place of the hearing. If another person is involved, as indicated in the examples given above, it is equally necessary to send a notice to the complainant. It is advisable, also, to talk with the complainant of your intention to return a case to court, provided that complainant is willing to appear and testify. Unless the complainant is willing to appear, it is seldom appropriate to return a case to Court on a Motion to Review.

Progress Report:

Although labeled as above, a Progress Report is quite similar to a Motion, inasmuch as it is terminated by a recommendation that the Court take certain action. But in one way it is different from a Motion. A Progress Report need not be put on a transmittal list, since it is already on the court calendar, having been continued from a prior date.

The Court usually continues a matter for a later hearing in order to see if the defendant has complied with conditions set forth at the time probation was originally granted. Has the defendant done what he was told to do, or has he refrained from doing what he was told not to do? Has he paid his fine, or made restitution? Is

he obtaining psychotherapy? Has he quit harassing his wife?

In reading a Progress Report, the judge will be primarily interested in hearing of the defendant's compliance with his orders. It may be that the defendant has not complied. Has he simply refused to do so? Has he been prevented from doing so because of circumstances beyond his control? Or has he complied in full?

From the answers to these questions will follow logically the Probation Officer's recommendation. This recommendation can be one of several, from Termination of Probation and Dismissal of the Charge to Revocation of Probation and Imposition of Sentence, or something in between these extremes.

Although a defendant should be aware that he is to return to Court on the date the Progress Report is due, he should be sent a notice to his address of record reminding him to appear. Never tell a defendant that he does not have to appear, but if you have good reason to believe that he will not appear, advise the Court as to your reason for thinking so.

A Progress Report is submitted on a Form AP-08, and must be on the judge's desk two days before it is to be heard. Attach to the face of the report a copy of the notice to appear which you have sent to the defendant.

DEPARTMENTAL DIRECTIVES

